GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

THE OUDH CODE:

CONSISTING OF THE

BENGAL REGULATIONS

AND THE

LOCAL ACTS OF THE GOVERNOR GENERAL IN COUNCIL

IN FORCE IN OUDH.

CALCUTTA:
OFFICE OF THE SUPERINTENDENT OF GOVERNMENT PRINTING.
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PREFACE.

THIS, the Oudh Code, is published under the authority of the Government of India, and contains, first, the unrepealed Bengal Regulations in force in Oudh as modified by the Oudh Laws Act, XVIII of 1876, and secondly, the unrepealed local Acts of the Governor General in Council in force in that Province.

The present volume is founded on Clarke's edition of the Bengal Regulations published in 1854, under the authority of the Court of Directors of the East India Company, and on the official copies of the Acts of the Supreme Council preserved in the Legislative Department.

The only changes made in reprinting are the following :—

(*a.*) Repealed portions of Regulations and Acts have been omitted, except in some cases where the repeal is not specific. In such cases the repeal is mentioned in a foot-note.

(*b.*) Where an Act directs that a section, a clause or words be inserted in a former Regulation or Act, in re-printing the former Regulation or Act, the insertion has been made.

(*c.*) Where one Regulation or Act refers to another, and such reference is directed by a subsequent Act to be read as if made to the latter Act, the number, year and title of the latter Act have, as a rule, been substituted in the text.

(*d.*) Arabic numerals have been substituted for the Roman numerals used in the Regulations and the earlier Acts to denote the section-numbers.

(*e.*) Words belonging to oriental languages have been uniformly spent.

(*f.*) Lengthy sections have sometimes been divided into clauses and paragraphs.

(*g.*) In some instances marginal notes have been added; in others, they have been shortened or corrected.

The Registrar, Legislative Department, is responsible for the correct printing of unaltered matter.

WHITLEY STOKES,
Secy. to the Govt. of India,
Legislative Department.

CALCUTTA,
The 20th January 1877.

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THE OUDH CODE.

PART I:

THE BENGAL REGULATIONS IN FORCE IN OUDH.

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REGULATION XXXIII OF 1803,

as modified by Act No. XVIII of 1876.

A Regulation for preventing the embezzlement of public money and the withholding of public papers by the Native officers of Government, *in the Provinces ceded by the Nawáb Wazír to the Honourable the English East India Company.*[a]

Preamble.

1. It being necessary that the collectors should possess the means of recovering the public dues and papers from tahsíldárs, sazáwals, ámíns and other Native officers withholding the public money, or omitting to attend the collectors to adjust their accounts, or retaining papers which came into their possessions in their official capacity, the Governor General in Council has passed the following rules.

Collectors to take security for personal appearance of certain Native officers.

2. *First.*—The collectors are to take security for the personal appearance of the tahsíldárs, sazáwals, ámíns, díwáns, sarrishtadárs, munshís, muharrirs, and all Native officers entrusted with the receipt or payment of public money or the charge of public accounts, who now are, or may be hereafter, employed under them, in their capacity of collectors of the revenue.

The surety is to bind himself to produce the officer for whom he may become security before the collector, whenever his attendance may be required, until he shall be discharged from the public service, and shall have received a writing from the collector, signifying that he has no demand upon him on the part of Government, either for money, papers or accounts belonging to the public, that may have been committed to him or come into his possession in his official capacity; and further, that in the event of his not producing such officer, he will be responsible for all demands that the collector may have upon

[a] The portions repealed by Act No. XII of 1876 have been omitted.

him for public money, papers or accounts, and be liable to be proceeded against in every respect in the same manner as the officer himself, had he been forthcoming.

When any such officer is removed or resigns, the collector is to grant him an acquittal to the above effect, after he shall have delivered up all public papers, accounts or money that may have been committed to his charge.

The collectors may require such officers to give new sureties in cases in which they may have ground to believe that the former sureties, whether admitted by themselves or their predecessors, are not responsible.

Second.—The responsibility of the sureties of tahsíldárs extends to the several cases provided for in this Regulation.

Collectors how to proceed to recover public money or accounts in possession of Native officers.

3. If a collector shall have a claim on the part of Government on any of the Native officers described in the preceding section, for a balance of accounts, or money or papers belonging to Government, he is to require the payment of the money or the delivery of the papers, by a writing under his official seal and signature, and the signature of his díwán or other head Native officer of his daftar for the time being, specifying the amount of the money, or the particular papers required, and the date and place that may be fixed for the delivery of the money or papers.

If the officer shall not discharge the money or deliver up the papers by the limited time, the collector is empowered to apprehend him, and convey him to the gaol of the District, where he shall be detained in confinement until the sum demanded of him shall be discharged, or he shall have delivered up the papers.

The collector is authorized, likewise, to attach such part of the moveable or immoveable property belonging to the officer, as may be sufficient to make good the sum which may be due from him.

If his property shall be in another zila, he is to apply to the collector of that zila, who shall cause it to be attached.

If the property shall be within any other jurisdiction, the collector is to apply to the Judge of the zila, through the vakíl of Government, to make application to the Judge of such jurisdiction to attach and deliver it into the charge of the nearest collector.

The Chief Commissioner is empowered to order the property to be sold, under the rules by which the lands of proprietors are directed to be disposed of for the discharge of arrears of revenue.

In the event of the death of any such officer, the surety is to be exonerated from all responsibility, and the collector is to proceed against his heirs, by a regular suit in the Court to which they may be amenable, for any claims which Government may have upon the deceased.

The suit is to be carried on by the vakíl of Government and at the public expense.

4. If any such Native officer, who may have retained public money or papers in his possession, shall abscond or not be forthcoming, the collector may proceed against the surety upon his engagement, or apprehend the offender and commit him to prison if he be within the limits of the zila;

Procedure where officers abscond or are not forthcoming.

or if he shall have taken refuge in any other zila, and the collector shall deem it necessary to require his personal attendance that he may proceed against him instead of his surety, the collector is to apply to the Judge of the zila to request the Judge within whose jurisdiction the officer may be or reside, to cause him to be apprehended.

The Judge to whom the application may be made is to convey the officer in safe custody to the gaol of the zila from which he may have absconded.

5. If a collector shall have occasion to require any such officer to attend to adjust his accounts, that the sum due from him may be ascertained, and he shall not attend upon being required by writing to that effect, under the official seal and signature of the collector, to be fixed up in his kachahrí and at the place in the zila at which the officer may have last resided, the collector is empowered to prepare the most accurate statement that he may be able of the money or papers in the possession of such officer, and proceed against the surety, upon his engagement, for the balance or papers, in the same manner as if the accounts had been adjusted, and the list of the papers prepared in the presence of the officer;

Procedure where officer absconds without having adjusted his accounts, or refuses to attend for that purpose.

or he may cause the officer to be apprehended by his own authority under section 3, if he be within the limits of the zila, or if he shall have taken up his abode in any other zila or jurisdiction, by application to the Judge, in the manner directed in section 4.

If it should afterwards appear, upon inquiry before the Court, that no part, or a portion only, of the sum demanded was due from him, or that the papers required were not in his possession, the collector shall not be liable to pay any damages for having confined him, and all costs that may be incurred in the suit or inquiry shall be paid by the officer.

6. If any such officer or his surety shall be confined on account of a claim for public money, and previous to the sale of his property, or supposing the collector not to have been able to get possession of any property belonging to him, at any time subsequent to his confinement, shall deny the justness of the whole or any part of the demand made upon him by the collector, and find some responsible person who will become security that he will institute a suit in the Court in fifteen days against the collector to try the demand, and to pay the sum that may be awarded against him with costs and interest at

Officers or sureties confined for demand of money when to be released.

the rate of twelve per cent. from the date on which the sum may be demanded of him to the date of the decree, the Court is to discharge the officer or surety, and proceed to the trial of the suit;

and if any property belonging to the officer or surety shall have been ordered to be sold, the sale shall be countermanded, and the property restored to the owner.

Native officers or their sureties may sue collector whilst in confinement.

7. If any such Native officer, or his surety, shall be committed to custody by the collector, and shall not obtain his release in the mode specified in section 6, he shall nevertheless be at liberty, whilst in confinement, to sue the collector by whom he may have been confined, should he deem the demand upon him unjust.

REGULATION X OF 1804,

as modified by Act No. XVIII of 1876.

A Regulation for declaring the powers of the Governor General in Council to provide for the immediate punishment of certain offences against the State by the sentence of Courts-martial.[a]

Power in time of war to suspend functions of ordinary criminal courts, and establish martial-law;

2. The Governor General in Council is hereby declared to be empowered to suspend, or to direct any public authority or officer to order the suspension of, wholly or partially, the functions of the ordinary criminal courts of judicature, within any zila, district, city or other place, within any part of the territories under the administration of the Chief Commissioner of Oudh, and to establish martial-law therein, for any period of time while the British Government in India shall be engaged in war with any Native or other Power, as well as during the existence of open rebellion against the authority of the Government, in any part of the territories aforesaid;

and to direct immediate trial by courts-martial, of lieges offending against Regulation.

and also to direct the immediate trial, by courts-martial, of all persons owing allegiance to the British Government, either in consequence of their having been born, or of their being residents, within its territories and under its protection, who shall be taken in arms in open hostility to the British Government, or in the act of opposing by force of arms the authority of the same, or in the actual commission of any overt act of rebellion against the State, or in the act of openly aiding and abetting the enemies of the British Government within any part of the said territories.

Lieges convicted by court-martial of any crime specified in section 2 liable

3. It is hereby further declared, that any person born or residing under the protection of the British Government within the territories aforesaid, and consequently owing allegiance to the said Government, who, in violation of the obligations of such allegiance, shall be guilty of any of the crimes specified

[a] The portions repealed by Act No. XVI of 1874 have been omitted.

in the preceding section, and who shall be convicted thereof by the sentence of a court-martial, during the suspension of the functions of the ordinary criminal courts of judicature and the establishment of the martial-law, shall be liable to the immediate punishment of death, and shall suffer the same accordingly, by being hung by the neck till he is dead.

to immediate punishment of death;

All persons who shall, in such cases, be adjudged by a court-martial to be guilty of any of the crimes specified in this Regulation, shall also forfeit to the British Government all property and effects, moveable or immoveable, which they shall have possessed within its territories at the time when the crime of which they may be convicted shall have been committed.

and to forfeiture of property.

4. The Governor General in Council shall not be precluded by this Regulation from causing persons charged with any of the offences described in the present Regulation to be brought to trial, at any time, before the ordinary courts of judicature, instead of causing such persons to be tried by courts-martial, in any cases wherein the latter mode of trial shall not appear to be indispensably necessary.

Governor General not precluded from causing persons charged with offence to be tried by ordinary courts.

REGULATION XI OF 1806,

as modified by Act No. XVIII of 1876.

A Regulation for facilitating the progress of detachments of Troops through the Company's territories; for affording any requisite assistance to persons travelling through those territories; and for extending the rules contained in sections LXVIII and LXXII, Regulation XXII. 1795, in clauses fifth and sixth, section XIV, Regulation VIII. 1805, and in section XXXI of that Regulation, to the whole of the Company's provinces subject to the immediate Government of the Presidency of Fort William; for the guidance of the civil officers in applying for guards from the regular battalions; and for modifying the rule contained in clause first, section XII, Regulation I. 1804.[a]

2. Whenever a detachment of troops, or a single corps, shall be ordered to proceed, by land or by water, through any part of Oudh, the commanding officer of such detachment or corps is required to give the earliest practicable notice to the Deputy Commissioner of the zilas through which the troops are to pass, of the probable time of their arrival within such districts respectively; together with information of the probable period of their arrival at the parti-

Notice to be given to Deputy Commissioner by officers commanding detachments proceeding through any part of Oudh.

[a] The portions repealed by Bengal Regulations II of 1811 and III of 1820, and by Acts No. XVI of 1874 and No. XII of 1876, have been omitted.

cular places where supplies may be required, and a specification of the supplies which will be wanted.

The commanding officer will likewise notify to the Deputy Commissioners the probable period of the arrival of the troops at the rivers or nalas intersecting their march, where boats or temporary bridges may be necessary for crossing the troops and the baggage attached to them.

Procedure of Deputy Commissioner on notice.

3. *First.*—On receiving the notification mentioned in the foregoing section, the Deputy Commissioner shall immediately issue the necessary orders to the landholders, farmers, tahsíldárs or other persons in charge of the lands through which the troops are to pass, for providing the supplies required, and for making any requisite preparations of boats or temporary bridges, or otherwise, for enabling the troops to cross such rivers or nalas as may intersect their march without any impediment or delay.

The Deputy Commissioner shall, at the same time, depute a creditable Native officer to accompany the troops through his jurisdiction, for the purpose of aiding in procuring the necessary supplies and of facilitating the march of the troops.

It shall also be the duty of such Native officer to provide the troops with whatever bearers, boatmen, carts and bullocks may be indispensably necessary to enable the troops to prosecute their route.

Police to assist in providing bearers, boatmen, carts and bullocks.

Should he experience any difficulty in the performance of this duty, he is at liberty to apply for assistance to the nearest Police officer, who is directed to afford his aid in providing the number of persons, and of carts and bullocks, required.

Rates for supplies furnished to troops.

Second.—The supplies furnished under the foregoing clause (including earthen-pots, firewood and every article of supply) shall be paid for by the persons receiving the same, at the current bázár prices of the place at which they may be provided;

Commanding officers to inquire into, and redress, complaints against persons under their command.

and all officers commanding detachments of troops or single corps marching through any part of Oudh, are enjoined to make immediate inquiry into any complaints which may be preferred to them by the persons furnishing such supplies, or in their behalf, against any person or persons under their command, and to afford such redress to the complainants as the nature of the case may appear to require.

Certificate to be granted by commanding officer, when troops are provided with boats, &c.

4. *First.*—Whenever a detachment of troops or a single corps shall be provided with boats, temporary bridges, or other accommodations, by any landholder, farmer, tahsíldár or other person, conformably to the orders of the Deputy Commissioner of the zila, for the purpose of crossing the troops and their baggage over rivers or nalas, the commanding officer of such detachment or corps will grant a certificate to the person furnishing the same,

specifying the number of boats and persons employed, the burthen of each boat; and how long employed on the public service.

In instances in which temporary bridges may be constructed for the above purpose, the certificate to be granted by the commanding officer is to specify, generally, the dimensions of the bridges and the materials of which they may be composed.

Second.—The certificate mentioned in the foregoing clause shall be immediately transmitted to the Deputy Commissioner of the zila by the person receiving it, accompanied by a detailed account of the expense incurred for the purposes therein specified.

Certificate to be sent to Deputy Commissioner with account.

The Deputy Commissioner shall, without delay, communicate the particulars of the account to the officer commanding the detachment or corps on whose account the expense may have been incurred, who shall certify generally thereon, whether the services charged for in it were performed, or shall state such exceptions as he may have to offer to any of the charges.

Account to be sent by Deputy Commissioner to commanding officer. Endorsement by commanding officer.

Third.—When the account above-mentioned shall be returned to the Deputy Commissioner, he shall certify whether the sums and rates charged in it are in his opinion reasonable, and conformable to the usual rates of labour and hire in the zila; and shall transmit the account, with the vouchers and certificates relating to it, with any requisite observations thereupon, through the prescribed channel, to the Chief Commissioner.

Account and vouchers to be sent by Deputy Commissioner with his report to Chief Commissioner.

After the account shall have undergone the examination and report prescribed for all military contingent charges, the Chief Commissioner will pass such final order as may appear proper.

In the meantime, the Deputy Commissioner is empowered, in such cases, to pay the amount of the charge, or such proportion of it as he may consider reasonable, to the landholder, farmer or other person entitled thereto; inserting the amount so disbursed by him at the foot of his treasury-account, in explanation of his treasury-balance, in the mode prescribed for similar cases.

Deputy Commissioner may pay charge if reasonable.

5. *First.*—Whenever a proprietor, farmer, tenant or manager of land through which any detachment or corps of troops may march, or on which they may be encamped, shall consider himself entitled to compensation for any injury sustained from the march or encampment of the troops, he shall immediately furnish the commanding officer of such troops with as accurate a statement as can be prepared of the nature and extent of the injury sustained; when the commanding officer is required to certify generally thereon, whether or not the damage represented to have been sustained has been actually committed, together with his opinion respecting the justice and extent of the claim.

Procedure for landholders and others sustaining injury from march or encampment of troops.

Certificate by commanding officer.

Second.—If the proprietor, farmer, tenant or manager, after receiving such

Certificate-

holder may present it with statement of claim to Deputy Commissioner.

certificate, shall consider himself entitled to compensation, he will be at liberty to present the statement of his claim, with the commanding officer's certificate thereon, to the Deputy Commissioner of the zila (either in person or by his vakíl) within ten days from the date of the certificate; but no claim of this description shall be received by the Deputy Commissioner after the expiration of that period, unless the person preferring it shall assign good and satisfactory reason for the delay. The Deputy Commissioner, on receiving a statement of damage and the commanding officer's certificate thereon within the prescribed period, or afterwards if sufficient reason be assigned for the delay, shall forthwith adopt such measures as may appear requisite to ascertain whether or not the claim be well founded; and shall report his proceedings to the Chief Commissioner accompanied by his opinion on the merits of the claim, for the consideration and orders of Government.

Exception.

Procedure of Deputy Commissioner on receiving statement and certificate.

Report to Chief Commissioner for orders of Government.

Uncertified claims.

It is however declared, that no claim will be received, unless accompanied by the prescribed certificate of the commanding officer of the troops by whom the damage may be stated to have been committed; excepting in instances in which the claimant can show good and sufficient cause for not having obtained such certificate.

In such cases, if the Deputy Commissioner shall be satisfied with the cause assigned by the claimant for not having obtained the prescribed certificate, he shall transmit the petition and statement of the claimant to the officer commanding the troops by whom the damage may be stated to have been committed, and shall wait his reply thereto previously to determining whether or not the claim be entitled to investigation.

Procedure of Deputy Commissioner on receiving notice under section 2.

6. Immediately on receiving the notification mentioned in section 2, the Deputy Commissioner shall transmit orders to the several police darogas, or other local officers of the Police through whose jurisdiction the troops are to pass, to afford every assistance in their power to facilitate the march of the troops through their respective jurisdictions; and to co-operate, as far as necessary, with the person deputed by the Deputy Commissioner in procuring the requisite supplies, as well as in adjusting any disputes which may arise respecting the prices of the articles furnished, and in preventing any alarm to the inhabitants of the country.

7. [*Omitted under Act No. XVIII of* 1876.]

Police empowered, in cases of necessity, to assist travellers in prosecuting their route.

8. Whenever any military officer, not commanding nor proceeding with a corps or detachment of troops, or any other person (whether European or Native) not restricted by Government from passing through the country, may be proceeding within any part of Oudh, either on the public service or on his private affairs, and shall be in need of assistance during his route to enable him to prosecute his journey, he shall be at liberty to apply to the nearest local

officer of Police, to aid him in providing any requisite bearers, boatmen, carts or bullocks, or any necessary supplies of provisions or other articles.

On receiving an application of the above nature, the Police officer to whom it may be made shall furnish the aid required, or cause it to be furnished by the proper person or persons; provided that a sufficient number of persons who have been accustomed to act as bearers or boatmen, or the requisite number of carts and bullocks, not exclusively appropriated to the purposes of agriculture and occasionally let for hire, can be procured within his jurisdiction. Assistance how afforded.

But all Police officers are strictly forbidden, under pain of dismission from office, on applications of the above nature, to compel any persons not accustomed to act as bearers or boatmen to serve on such occasions, or to furnish a traveller, or cause him to be furnished, with bullocks or carts kept for private use and not for hire, or exclusively appropriated to the purposes of agriculture. Persons and carts and bullocks not to be employed in furnishing assistance. Penalty for breach of rule.

Persons so employed, and the persons in charge of carts and bullocks so provided, shall be at liberty to return from the first police-station in the next zila through which the corps or detachment is to march, unless a voluntary engagement to the contrary may be entered into by such persons. Persons employed to be at liberty to return from first police-station in next zila, unless they engage to the contrary.

The Police officers are further enjoined to be careful that a proper compensation for the bearers, boatmen, carts or bullocks employed, and a just price for the provisions or other articles provided, be secured to the persons entitled thereto.

For this purpose, the Police officers are authorized to adjust the rate of hire to be paid for the bearers, boatmen, carts or bullocks required, and the price of any articles provided; as well as to demand that the whole, or a part, according to the circumstances of the case, be paid in advance.

Should any traveller refuse to comply with the adjustment or demand so made by a Police officer, he will not be entitled to any assistance from the officers of Government under this Regulation. Conditions of assistance to travellers.

REGULATION XVII OF 1806,

as modified by Act No. XVIII of 1876.

A Regulation for extending to the Province of Benares the rates of interest on future loans, and provisions relative thereto, contained in Regulation XV, 1793; also for a general extension of the period fixed by Regulations I. 1798, and XXXIV. 1803, for the redemption of mortgages and conditional sales of land, under deeds of Bai-bil-wafá, Kat-kabálá, or other similar designation.

7. When the mortgagee may have obtained possession of the land on exe- What shall

entitle mortgagor or his representative to redeem before final foreclosure, after application by mortgagee for foreclosure.

cution of the mortgage-deed, or at any time before a final foreclosure of the mortgage, the payment or established tender of the sum lent under any such deed of mortgage and conditional sale, or of the balance due, if any part of the principal amount shall have been discharged, or when the mortgagee may not have been put in possession of the mortgaged property, the payment or established tender of the principal sum lent, with any interest due thereupon, shall entitle the mortgagor and owner of such property, or his legal representative, to the redemption of his property before the mortgage is finally foreclosed in the manner provided for by the following section; that is to say, at any time within one calendar year from and after the application of the mortgagee to the Deputy Commissioner for foreclosing the mortgage and rendering the sale conclusive, in conformity with section 8 of this Regulation:

Proviso.

Provided that such payment or tender be clearly proved to have been made to the lender and mortgagee or his legal representative; or that the amount due be deposited, within the time above specified, in the Court of the Deputy Commissioner or other officer having jurisdiction, with reference to the value of the subject-matter, [in the District[a]] in which the mortgaged property may be situated.

Procedure for mortgagee or conditional vendee desirous to foreclose mortgage or render conditional sale absolute.

8. Whenever the receiver or holder of a deed of mortgage and conditional sale, such as is described in the preceding section of this Regulation, may be desirous of foreclosing the mortgage and rendering the sale conclusive on the expiration of the stipulated period, or at any time subsequent before the sum lent is repaid, he shall (after demanding payment from the borrower or his representative) apply for that purpose by a written petition, to be presented by himself or by one of the authorized vakíls of the Court, to the Deputy Commissioner of the district in which the mortgaged land or other property may be situated.

Procedure of Deputy Commissioner on receiving petition.

The Deputy Commissioner, on receiving such written application, shall cause the mortgagor or his legal representative to be furnished, as soon as possible, with a copy of it; and shall at the same time notify to him, by a parwána under his seal and official signature, that if he shall not redeem the property mortgaged in the manner provided for by the foregoing section, within one year from the date of the notification, the mortgage will be finally foreclosed and the conditional sale will become conclusive.

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[a] The words in brackets were accidentally omitted.

REGULATION XX OF 1810.

A Regulation for subjecting persons attached to the military establishments to martial-law in certain cases, and for the better government of the retainers and dependents of the army receiving public pay on fixed establishments, and of persons seeking a livelihood by supplying the Troops in garrison, cantonment and station military bázárs, or attached to bázárs of corps.[a]

1. By the respective Articles of War for the government of His Majesty's and the Honourable Company's troops, all retainers to a camp, and all persons whatever serving with the forces in the field, though not enlisted soldiers, are to be subject to orders according to the rules and discipline of war. From the great number of Native retainers and followers attached to military establishments in India, and the importance of a prompt and orderly discharge of their duties to the welfare of the troops, it is necessary that the principle of this Article of War should be extended to other cases than that of actual service in the field, to which it is at present confined, and that it should be applied, under certain restrictions, to the maintenance of a proper discipline among the retainers of the army at all times. By Regulation III, 1809, the support of the Police and the maintenance of the peace within the limits of cantonments and military bázárs are vested in the officers commanding the troops quartered at such places; but the powers of commanding officers under that Regulation are restrained[b] to such measures as may be calculated for the prevention of crimes and the apprehension of persons committing them, and they are prohibited from interfering in cases of petty breaches of the peace and other offences of inferior magnitude, unless where the parties are taken in the fact; the cognizance of these offences, as well as those of greater magnitude, being expressly reserved to the Magistrate by that Regulation. As, however, it will further tend to the maintenance of good order, to subject the retainers and dependents of the army to punishment for petty offences by a military tribunal, it has been deemed expedient to transfer the cognizance of such cases, under the restrictions and in the mode hereafter mentioned, to courts-martial to be assembled for that purpose by commanding officers; and it has further been deemed expedient, for the ease and security of dealers, and for encouraging their resort to military bázárs, to vest in military courts to be assembled by com-

[a] The portions repealed by Acts No. XI of 1841, No. XXII of 1864, No. XVI of 1874 and No. XII of 1876 have been omitted.

[b] See in the edition of 1832.

manding officers a power of enforcing the payment of small debts, and of deciding on the spot in petty causes of a civil nature arising between officers, soldiers or retainers of the army, and persons carrying on trade in military bázárs, or between such retainers or traders, the Governor General in Council has therefore been pleased to enact the following rules.

Certain persons serving with army and receiving public pay subject to trial by courts-martial for breach of duty or offences against good order or local regulations.

2. All persons serving with any part of the army and receiving public pay drawn by any officer in charge of a public department appertaining to the army, whether as lascars, magazine-men, khalásís attached to magazines or any other department or establishment, native doctors, writers, bihishtís, pakhális, syces, grasscutters, maháwats, sarwáns or other subordinate servants attached to public cattle, bíldárs, artificers or in any other capacity shall (provided they are borne upon the fixed establishment of the department in which they are employed and not otherwise) be subject to be tried by a court-martial for all breaches of their respective duties, and for all disorders and neglects to the prejudice of good order and of the local regulations established by the commanding officer or other competent authority in the cantonment, garrison, station or other places where the troops to which they are attached may be serving.

Limitation of punishment by courts-martial.

3. Provided that it shall not be competent for such court-martial to sentence any persons[a] of the above description to any other or heavier punishment than may now be lawfully inflicted on enlisted soldiers, under the second Article of the twenty-fourth section of his Majesty's Articles of War, unless where the forces are serving in the field; for which case provision is already made by the existing Articles of War, from which nothing in this Regulation is to be understood to derogate.

Servants of officers, though not receiving public pay, liable to trial by courts-martial for breaches of local regulations.

4. Menial servants of officers within the precincts of any cantonment, garrison or military station or military bázár, although they shall not be in the receipt of public pay, shall at all times be subject to all such regulations as shall be made by the commanding officer or other competent authority, for the maintenance of good order in such cantonment, garrison, station or bázár, and shall be liable to be tried by a Native court-martial for any breach thereof.

5. [*Repealed by Act No. XVI of* 1874.]

Plans where to be deposited.

6. The plans shall be prepared in quadruplicate and signed by the commanding officer and the Magistrate of the district; one copy shall be deposited at the head-quarter of the station, another at the kachahrí of the Magistrate, and the other two shall be transmitted to the Commander-in-chief, by whom one copy will be forwarded to Government.

Names of certain residents

7. The names of all persons having houses, shops or other buildings or

[a] *Sic* in the edition of 1832.

fixed places within the limits of the garrison, cantonment or station, as described in the plans, in which they carry on trade, or otherwise seek a livelihood by supplying or serving the troops, shall be entered in a register to be kept in the office of the Brigade Major or other station-staff-officer, and to be open to inspection at all reasonable hours.

within cantonments, &c., to be registered in office of Brigade Major or other officer.

The name of each person shall be entered both in English and in the language and character commonly used in the district in which the station is situated, and the occupation of the person written opposite to it, in like manner, with the place of his residence and the date of the registration.

8. No person shall be registered as attached to the station-bázár without his free consent, and any person so registered shall be entitled at any time to demand his discharge from the registry.

Rules as to registered persons.

Persons registered shall be entitled to the privileges of registry so long only as they continue to carry on trade or other employment relating to the supply or service of the troops, at some house, shop or fixed place within the limits above-mentioned, and shall be subject during such time to all regulations made by the commanding officer or other competent authority, for the maintenance of good order and fair dealing in the station-bázár, and shall be liable to be tried by a Native court-martial for any breach thereof.

9. The names of all persons attached to bázárs of corps shall, in like manner, be registered in a book, which shall be kept at the head-quarters of the corps, and shall be open to inspection at all reasonable hours; the entries shall be made in the same manner, in all respects, as those in the registers of station-bázárs.

Persons attached to bázárs of corps to be registered in book at head-quarters.

10. No person shall be registered as attached to the bázár of a corps without his free consent, and any person so registered shall be entitled at any time to require his discharge; except when the corps is on actual service, or there is an immediate prospect of its being ordered to march, in which cases it shall be in the discretion of the commanding officer to withhold such discharge, so long only as the immediate exigency of the public service requires.

Rules as to such persons.

11. No person registered as attached to the bázár of a corps shall be entitled to any of the privileges of such registry, except those who ordinarily carry on the trade or employment in respect of which they are registered, within the place allotted or commonly used for the bázár of the corps when it is stationary.

Persons entitled to privileges of registry.

12. All persons registered as attached to bázárs of corps shall, while they continue so attached, be subject to such regulations as shall be made by the commanding officer or other competent authority, for the maintenance of good order and fair dealing in the bázár, and for the prompt and efficient execution of such services as belong to their respective occupations.

Registered persons liable to local regulations, and to trial by courts-martial for breach.

13 to 18. [*Repealed by Act No. XXII of* 1864.]

Execution of process of arrest, either civil or criminal, within military stations.

19. In all cases in which it may be necessary to execute any process of arrest, criminal or civil, within the limits of a garrison, cantonment, military station or military bázár (the process of the Supreme Court only excepted), the officers intrusted with the execution of such process of arrest shall in the first instance carry the same to the commanding officer, or if he shall happen to be absent, to the senior officer actually present in the garrison, cantonment or station;

and the commanding officer or such senior officer, upon such process being produced to him, shall back the same with his signature, and shall forthwith use his utmost endeavours to cause the person or persons named in such process to be discovered, and if within the limits of the garrison, cantonment, station or bázár, to be arrested and delivered according to the exigency of the process to the civil officer charged with the execution thereof;

Rule not to extend to service of process short of arrest.

but nothing herein contained is to be construed to prevent the service by the civil officer, in the usual way, of summonses, subpœnas or other process of mere citation without arrest.

Description of military stations to which rules are confined.

20. The provisions of this Regulation respecting the trial of petty offences committed within the limits of garrisons, cantonments, military stations or military station-bázárs, and the provisions of this Regulation respecting the execution of process of arrest before judgment against registered persons attached to station-bázárs, are to be considered as applicable only to those garrisons, cantonments and stations, the limits whereof shall be laid down in plans approved and confirmed by the Governor General in Council, in the manner described in section 5 of this Regulation;

and they shall be in force in such garrisons, cantonments and military stations, respectively, from the time that the plans so approved and confirmed shall have been deposited at the head-quarters and in the kachahrí of the Magistrate,[a] in the manner prescribed in section 6.

With regard to those garrisons, cantonments or stations to which it may not be found practicable to assign local limits for the purposes of this Regulation, special provisions will be made hereafter, according to the circumstances of each case.

21. [*Repealed by Act No. XXII of* 1864.]

22 to 25. [*Repealed by Act No. XI of* 1841.]

Commanding officers not to dispossess proprietors of land or houses

26. Nothing in this Regulation is to be construed to give any authority to commanding officers to dispossess proprietors of land or houses which may be situated within the limits of military bázárs, although such persons shall

[a] *Sic* in the edition of 1832.

refuse to be registered as attached to the bázár, or shall have lost, or forfeited or resigned, their privilege of registry. within military bázárs.

In all cases in which the ground allotted to those bázárs, or any part of it, is the property of Government, and the occupation of individuals has been declared by Government merely permissive, the commanding officer is empowered to make such general regulations as he may think fit (subject to the approbation of the Governor General in Council) respecting the tenure or occupation of houses, shops or other fixed places situated upon such ground as belongs to Government; which regulations shall in all cases be reduced to writing, and shall, after receiving the approbation of the Governor General in Council, be published in station-orders, with a translation in the language commonly used in the district; and the same shall not be of force until fourteen days after they shall have been so published within the limits of the station-bázár. Rules as to lands the property of Government within those bázárs.

REGULATION V OF 1817,

as modified by Act No. XVIII of 1876.

A Regulation for declaring the rights of Government and of individuals with respect to hidden treasure, and for prescribing the rules to be observed on the discovery of such treasure.[a]

1. WHEREAS the provisions of the Muhammadan and Hindú laws respecting the discovery of hidden treasure differ materially; and whereas it is deemed expedient that an uniform principle should be established for the guidance of persons by whom hidden treasure may be discovered, the following provisions are enacted. Preamble.

2. Whenever any hidden treasure, consisting of gold or silver coin or bullion, or of precious stones or other valuable property, may be found buried in the earth, or otherwise concealed within any part of the territory subject to this presidency, and, after due notification, the owner thereof may not be discoverable, such hidden treasure shall become the property of the person or persons who may have found the same, provided it shall not exceed in amount or value the sum of one lákh of sicca rupees; and provided the finder or finders shall have conformed to the rules prescribed in this Regulation. Hidden treasure when to become property of finder.

3, 4. [*Repealed by Act No. VIII of* 1868.]

5. It shall be the duty of the Deputy Commissioners, acting under the instructions of the Chief Commissioner, to bring forward and to support, in conformity with the foregoing provision, any claim of right which Government may appear to possess to such treasure. Deputy Commissioners to bring forward claim of right on part of Government.

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[a] The portions repealed by Acts No. VIII of 1868, No. XVI of 1874 and No. XII of 1876 have been omitted.

Summary inquiry to be instituted.

Judgment how awarded.

In the event of any claim of right being preferred, either on the part of individuals or of Government, pursuant to the prescribed notification, the Deputy Commissioner shall institute a summary inquiry into the claim preferred; and if the title of Government, or other person so claiming the treasure in deposit, or any part thereof, be clearly established, he shall adjudge the same accordingly, subject to reimbursement of all expense incurred by the finder of the treasure, as well as to such compensation for the discovery of it as may, in such case, appear just and reasonable.

Judgment when no claim preferred either by Government or by individuals, and amount does not exceed one lákh.

6. If no claim of right be preferred either by Government or by an individual, or if the claim or claims so preferred shall not on a summary inquiry appear to be well founded, and the amount or value of the hidden treasure found at the same time, or in the same place, shall not exceed one lákh of sicca rupees, the Deputy Commissioner shall adjudge the same to the person or persons who may have discovered the treasure, subject only to the actual expense which may have been incurred in adopting the measures prescribed by this Regulation.

Decision when amount exceeds one lákh of rupees, and no claim of right is established.

7. If the amount or value of any hidden treasure found at the same time, or in the same place, shall exceed one lákh of rupees, and no claim of right thereto be established, judgment shall be given, according to the preceding section, in favour of the person or persons who may have discovered the treasure, to the amount of one lákh of rupees; and the excess above that sum shall be declared at the disposal of Government.

Persons discovering hidden treasure, and neglecting to give due notice within one month, to forfeit all right to treasure and to compensation.

8. If any person discovering hidden treasure of the description specified in section 2 of this Regulation shall not, within one month after finding the same, give notice to the Deputy Commissioner, he shall be considered to have forfeited all right and title to the treasure, as well as all claim to a reimbursement of expense, compensation or reward, under the provisions of this Regulation,

and the treasure so clandestinely withheld from public investigation shall, on a summary suit by any subsequent claimant of right, and proof of a just title thereto, be adjudged to the legal owner with interest and costs, or, if no private claim be established, shall be liable to confiscation to Government.

Appeal.

9. The decisions of Deputy Commissioners under this Regulation, shall be open to appeal under Act XXXII of 1871.

REGULATION III OF 1818,
as modified by Act No. XVIII of 1876.

A Regulation for the confinement of State Prisoners.[a]

1. WHEREAS reasons of State, embracing the due maintenance of the alliances formed by the British Government with Foreign Powers, the preservation of tranquillity in the territories of Native Princes entitled to its protection, and the security of the British dominions from foreign hostility and from internal commotion, occasionally render it necessary to place under personal restraint individuals against whom there may not be sufficient ground to institute any judicial proceeding, or when such proceeding may not be adapted to the nature of the case, or may for other reasons be unadvisable or improper; and whereas it is fit that, in every case of the nature herein referred to, the determination to be taken should proceed immediately from the authority of the Governor General in Council; and whereas the ends of justice require that, when it may be determined that any person shall be placed under personal restraint, otherwise than in pursuance of some judicial proceeding, the grounds of such determination should from time to time come under revision, and the person affected thereby should at all times be allowed freely to bring to the notice of the Governor General in Council all circumstances relating either to the supposed grounds of such determination, or to the manner in which it may be executed; and whereas the ends of justice also require that due attention be paid to the health of every State prisoner confined under this Regulation, and that suitable provision be made for his support according to his rank in life, and to his own wants and those of his family; and whereas the reasons above declared sometimes render it necessary that the estates and lands of zamíndárs, taluqdárs and others, should be attached and placed under the temporary management of the Revenue Authorities without having recourse to any judicial proceeding; and whereas it is desirable to make such legal provisions as may secure from injury the just rights and interests of individuals whose estates may be so attached under the direct authority of Government, the Vice-President in Council has enacted the following rules. Preamble.

2. *First.*—When the reasons stated in the preamble of this Regulation may seem to the Governor General in Council to require that an individual should be placed under personal restraint without any immediate view to ulterior proceedings of a judicial nature, a warrant of commitment under the authority of the Governor General in Council, and under the hand of the chief secretary, or of one of the secretaries to Government, shall be issued to the officer in whose custody such person is to be placed. Proceeding for placing persons under restraint as State prisoners.

[a] See Acts No. XXXIV of 1850, and No. III of 1858. The portion repealed by Act No. XVI of 1874 has been omitted.

Form of warrant.

Second.[a] The warrant of commitment shall be in the following form :—

To the [*here insert the officer's designation.*]

"Whereas the Governor General in Council, for good and sufficient reasons, has seen fit to determine that [*here insert the State prisoner's name*] shall be placed under personal restraint at [*here insert the name of the place*], you are hereby required and commanded, in pursuance of that determination, to receive the person above named into your custody, and to deal with him in conformity to the orders of the Governor General in Council, and the provisions of Regulation III of 1818.

"Fort William, the

By order of the Governor General in Council,

A. B.,

Chief Secretary to Govt."

Authority of warrant.

Third. The warrant of commitment shall be sufficient authority for the detention of any State prisoner in any fortress, jail or other place.

Officers having custody of State prisoners, to submit periodical reports.

3. Every officer in whose custody any State prisoner may be placed shall, on the first of January and first of July of each year, submit a report to the Governor General in Council, through the Secretary to Government in the Political Department, on the conduct, the health, and the comfort of such State prisoner, in order that the Governor General in Council may determine whether the orders for his detention shall continue in force or shall be modified.

4. *First.* [*Omitted under Act No. XVIII of* 1876.]

State prisoners in custody of public officer not being Deputy Commissioner, by whom to be visited.

Second. When any State prisoner is placed in the custody of any public officer not being a Deputy Commissioner, the Governor General in Council will instruct either the Deputy Commissioner, or the Commissioner of Division or any other public officer, not being the person in whose custody the prisoner may be placed, to visit such prisoner at stated periods, and to submit a report to Government regarding the health and treatment of such prisoner.

Representations by State prisoners to be submitted to Government.

5. The officer in whose custody any State prisoner may be placed is to forward, with such observations as may appear necessary, every representation which such State prisoner may from time to time be desirous of submitting to the Governor General in Council.

Report to Government regarding confinement, &c., of prisoners.

6. Every officer in whose custody any State prisoner may be placed shall, as soon after taking such prisoner into his custody as may be practicable, report to the Governor General in Council whether the degree of confinement to which he may be subjected appears liable to injure his health, and whether the allowance fixed for his support be adequate to the supply of his own wants and those of his family, according to their rank in life.

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[a] See Act No. XXXIV of 1850, sec. I.

7. Every officer in whose custody any State prisoner may be placed, shall take care that the allowance fixed for the support of such State prisoner is duly appropriated to that object.

Appropriation of allowance for support.

8. [*Repealed by Act No. XVI of* 1874.]

9. Whenever the Governor General in Council, for the reasons declared in the preamble to this Regulation, shall judge it necessary to attach the estates or lands of any zamíndár, jágírdár, taluqdár or other person, without any previous decision of a Court of justice, or other judicial proceeding, the grounds on which the Resolution of Government may have been adopted, and such other information connected with the case as may appear essential, shall be communicated, under the hand of one of the secretaries to Government, to the Judge and Magistrate of the District in which the lands or estates may be situated, and to the Judicial Commissioner.

Attachment of estates by order of Government without decision of Court.

10. [*Omitted under Act No. XVIII of* 1876.]

11. Whenever the Governor General in Council shall be of opinion that the circumstances which rendered the attachment of such estate necessary have ceased to operate, and that the management of the estate can be committed to the hands of the proprietor without public hazard or inconvenience, the Revenue Authorities will be directed to release the estate from attachment, to adjust the accounts of the collections during the period in which they may have been superintended by the officers of Government, and to pay over to the proprietor the profits from the estate which may have accumulated during the attachment.

Rules as to cases where Government orders release of estate from attachment.

REGULATION VI OF 1819,

as modified by Act No. XVIII of 1876.

A Regulation for rescinding Regulation XIX 1816, and for enacting other provisions in lieu thereof.[a]

3. *First.* No ferries shall be hereafter considered public ferries, except such as may be situated at or near the sadr stations of the several Magistrates, or such as may intersect the chief military routes or other much-frequented roads, or such as from special considerations it may appear advisable to place under the more immediate management of the Magistrates.

What ferries considered public.

Second. The Government reserves to itself the power of determining, from time to time, what ferries shall, under the preceding rule, be deemed public ferries, and as such shall be subject to the immediate control of the Magistrates;

and no Magistrate shall, without previous authority from Government, assume the management of any ferry which may not have been let in farm or held khás, or otherwise subjected to assessment.

Magistrates not to assume charge of unassessed ferries, unless specially authorized.

[a] The portions repealed by Acts No. XVI of 1874 and No. XII of 1876 have been omitted.

Lists of proposed ferries to be submitted to Government.

Third. It will be the duty of the several Magistrates to prepare lists of the ferries which, in their judgment, should, under the foregoing rules, be considered to be public ferries, and transmit them, as soon as prepared, through the Commissioners of Divisions, for the information and orders of the Chief Commissioner, who shall fix the rates of toll to be levied at such ferries.

Appointment of persons to charge of ferries. Rates of toll. Number of boats, &c.

4. *First.* The power of appointing proper persons to the charge of the public ferries is vested in the Magistrates, who are authorized from time to time to issue such orders as they may judge expedient, for regulating the number and description of boats to be maintained, for preventing exactions and generally for promoting the efficiency of the Police, and the safety and convenience of the community.

Removal of mánjís or others in charge of ferries.

Second. On proof of any wilful breach of those rules, or of other misconduct on the part of the mánjís or other persons in charge of the public ferries, the Magistrates are empowered (independently of any punishment to which the parties may subject themselves under the general Regulations) to remove such individuals and to appoint others in their room.

Persons exempted from toll.

Third. The mánjís or other persons who may be vested with the charge of public ferries are to engage to cross free of toll the troops of Government, with their baggage and military stores, as well as all Police and other Native officers of Government who may be actually employed on the public service.

Publication of attested lists of ferries.

5. A list of all public ferries, bearing the signature of the Magistrate, shall be constantly stuck up in some conspicuous place in their kachahrís,[a] and likewise in the thána within the jurisdiction of which they may be situated.

Exclusive right of Government to public ferries.

6. *First.* Such ferries shall exclusively belong to Government, and no person shall be allowed to employ a ferry-boat plying for hire at or in their immediate vicinity, without the previous sanction of the Magistrate:

Compensation for loss sustained.

provided, however, that due attention shall be paid to all claims for compensation which may be preferred by individuals, for any loss which may be sustained by them in consequence of the extension of the authority of Government to ferries hitherto under their private management, and which may not have been heretofore let in farm or held khás, or otherwise deemed subject to assessment on account of Government.

Such cases to be investigated and reported to Government.

Second. Claims of that nature shall be inquired into by the Magistrates, and their opinion on the merits of each case shall be reported through the Commissioners of Divisions, for the consideration and orders of the Chief Commissioner.

Objects to which Magistrates are to attend, in assuming

7. *First.* In assuming the management of public ferries, the general objects of the Magistrates shall be,

the maintenance of an efficient Police,

[a] *Sic.* Read 'his kachahrí.'

the safety and convenience of travellers,
the facility of commercial intercourse, and
the expeditious transport of troops.

charge of public ferries.

For the above objects, they shall be careful to provide or cause to be provided safe and commodious boats; they shall adjust the modes of payment, so that the tolls may bear as lightly as possible on the poorer classes of the community, and by leaving a fair profit to the individual who may be chosen for the immediate charge of the ferries, they shall endeavour to secure as far as possible the services of respectable and competent persons.

Collections for Government.

Second. No collections shall be taken on account of Government from the proceeds of any ferry until the above objects are fully secured;

Surplus-collections how appropriated.

and if in any case there shall remain a clear surplus-profit after providing adequately for those purposes, the amount collected shall be applied solely to the furtherance of similar objects; such as the repair or construction of roads, bridges and drains, the erection of saráis or other works of a like nature.

Proceeding where public ferry yields surplus.

Third. In cases of the latter description, namely, those in which the receipts of any ferry shall be sufficient to afford a surplus-revenue as above mentioned, the Magistrate having previously received special authority from Government in that behalf, may and shall require the person holding or applying for the charge of the ferry, to enter into an engagement for the payment, by monthly or quarterly instalments, of such a sum of money as, with reference to the estimated surplus, may appear justly demandable, without risking the primary objects above indicated;

Engagement for payment of instalments.

Procedure when person refuses to engage.

and if any person in charge of a ferry shall refuse to enter into an engagement as aforesaid, and shall not assign sufficient cause for such refusal to the satisfaction of the Magistrate, it shall be competent to such officer to transfer the charge of the ferry to any other respectable and competent person;

provided, however, that no person in charge of a ferry, who shall otherwise conduct himself to the Magistrate's satisfaction, shall be removed from his charge under the above rule, excepting at the expiration of the term of his lease.

Mode of paying collections realized.

Fourth. The mode in which collections made under this section shall be paid, whether into the treasury of the Deputy Commissioner or any other public officer, shall be determined by the orders of Government, and adjusted with the party by the Magistrate at the time of giving him charge of the ferry or ferries intrusted to him;

Receipts for payments by ferry-renters.

provided, however, that, as a general rule, all persons in charge of ferries subject to the payment of a rent shall, on discharging any instalments, receive and be directed to require receipts for the amount, which shall be countersigned by an officer of Government.

Security to be given by persons in charge of public ferries.

8. The Magistrate shall be competent to take security for the good behaviour of persons vested with the charge of public ferries, and in the case of persons who may, under the provisions of the foregoing section, enter into an engagement for the payment of a yearly rent, it shall likewise be competent to the officers aforesaid to require adequate security for the punctual payment of the amount as it may become due.

When persons allowed to relinquish charge.

9. Any person in charge of a public ferry, whether subject to the payment of rent or not, shall be at liberty to relinquish the charge on giving ten days' notice to the Magistrate and on paying any arrears that may be due:

Proviso as to transfer of boats.

provided, however, that it shall in such case be competent to the Magistrates to require any person who may so relinquish the charge of a ferry, or who may be removed from such charge, to transfer the boats belonging to the ferry to the person who may be appointed to succeed him, at a fair valuation, or to retain the boats until others can be provided, making a suitable compensation to the owner.

Recovery of rent from defaulter.

10. If any person having charge of a ferry, and subjected to the payment of a yearly rent, shall fail to discharge the amount as it may become due, he shall be liable to immediate removal, and the Magistrate, after ascertaining the arrear and certifying the default, will proceed to the recovery of the amount from the party and his surety, in the manner prescribed for the recovery of arrears of revenue.

Information to persons receiving charge of ferries.

11. All persons vested with the charge of public ferries, whether paying any rent or not, shall, on accepting the situation, be distinctly apprized that the Chief Commissioner reserves to himself the power of reducing the rates of toll, or extending the exemptions from the payment of it, at such times and in such manner as shall appear proper, with a view to the public good;

Option to relinquish charge.

provided, however, that in the event of any such measures being adopted, the party in charge of the ferry may relinquish the charge, and the Magistrate shall in such case purchase from him at a fair valuation, or cause his successor so to purchase, all boats belonging to the ferry, with all articles thereunto appertaining.

Intended abatement of rent to be communicated to ferry-renter.

12. *First.* Provided also, that whenever the Chief Commissioner shall adopt such measures in regard to any ferry for which a rent shall have been required from the person vested with the charge of it, the Magistrate shall, in communicating his orders to the party aforesaid, at the same time apprise him whether he designs to allow any and what reduction in the stipulated rent.

Case of person unwilling to pay rent fixed by Magistrate.

Second. If the person in charge of the ferry shall not be willing or able to pay the rent so fixed by the Magistrate, he shall nevertheless immediately carry the Magistrate's order into effect, and shall state in his reply to those orders the amount of rent which he may be willing to continue to discharge.

Should the offer of the party in charge of the ferry appear inadequate, it shall be competent to the Magistrate to remove him and to place another person in charge of the ferry, purchasing the boats and their appurtenances as aforesaid; but the person so removed shall be required to pay, for the days during which he may retain charge subsequently to the date of his reply to the Magistrate's order, a proportionate rent, calculated at such rate only as he may have tendered.

13. *First.* The foregoing rules are intended to apply exclusively to those ferries which may be declared to be public ferries.

Magistrates not to interfere with other than public ferries, except for purposes of Police, &c.

With regard to all other ferries, the Magistrates shall not interfere with them further than may be necessary for the general maintenance of the Police, and for the safety of passengers and property.

REGULATION XI OF 1822,

as modified by Act No. XVIII of 1876.

A Regulation *for modifying and explaining the existing Regulations relative to the sale of land for the recovery of arrears of revenue;* for declaring Government not to be liable for any errors or irregularities in the proceedings of the Courts of Justice; *and for making further provision for the conduct of the Revenue Officers in certain cases.*[a]

38. It is hereby declared and enacted, that Government is not and shall not be held liable for any error or irregularity which may have occurred, or shall occur, in any order, proceeding or decree of any Court of Judicature, whether a revenue or other officer of Government may or may not have been, or shall or shall not be, employed in giving effect to the order, proceeding or decree deemed to be erroneous or irregular.

Government not liable for errors of Courts.

Nor shall any officer of Government be held liable for anything done or suffered in conformity with an order, proceeding or decree of a Court as aforesaid;

and if any person or persons shall sue Government, or any officer of Government, for anything done or suffered under an order, proceeding or decree of Court as aforesaid, such person or persons shall be nonsuited, with costs.

The same principle is and shall be held applicable to all orders, proceedings or decrees made, held or passed by any public officer, in virtue of powers vested in him for the judicial cognizance of any pleas, suits, complaints or informations whatsoever, unless otherwise specially provided.

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[a] The portion repealed by Act No. XII of 1841 has been omitted.

REGULATION VI OF 1825,

as modified by Act No. XVIII of 1876.

A Regulation for rendering more effectual the rules in force relative to supplies and preparations for Troops proceeding through the British territories.[a]

Preamble.

1. WHEREAS it is enacted in the first clause of section 3, Regulation XI. 1806, that on receiving the notification mentioned in the preceding section, relative to a body of troops about to proceed, by land or by water, through any part of the Company's territories, the Collector of the district shall immediately issue the necessary orders to the landholders, farmers, tahsíldárs or other persons in charge of the lands through which the troops are to pass, for providing the supplies required, and for making any requisite preparations of boats or temporary bridges, or otherwise for enabling the troops to cross such rivers or nallas as may intersect their march without impediment or delay; it being at the same time further directed, in the second clause of the section referred to, that the supplies so furnished shall be paid for by the persons receiving the same, at the current bázár prices of the place at which they may be provided, and that the expense incurred for crossing the troops and their baggage over rivers or nallas, after being duly ascertained, will be paid by Government; and whereas experience has shown the necessity of enabling the Collectors, or other public officers acting in that capacity, to enforce their orders in the cases abovementioned, by imposing a fine upon any landholder, tahsíldár or other person in the possession or management of land, who, after receiving the requisition issued in pursuance of the section above cited may be proved to have wilfully disobeyed or neglected the same; the Governor General in Council has therefore enacted the following rules.

Penalty for zamíndárs not providing supplies for troops, &c.

2. Any landholder, farmer, tahsíldár or other person in the possession or management of land, who may have been duly required by a Collector of the land-revenue (or any public officer acting in that capacity) to provide supplies for a body of troops about to proceed by land or water through any part of the British territories, or to make preparations of boats, temporary bridges or otherwise, for enabling the troops to cross rivers or nallas intersecting their march; and after the receipt of such requisition shall wilfully disobey or neglect the same, or shall without sufficient cause fail to exert himself for the due execution of the duty so assigned to him, shall, on proof of such failure, neglect or disobedience, to the satisfaction of the Collector (or other officer acting in that capacity) by whom the order may have been issued, or of his successor in

[a] The portions repealed by Act No. XII of 1876 have been omitted.

the same office, be liable to a fine proportionate to the defaulter's condition in life and the circumstances of the case, in such amount as the Collector or other officer, with due regard to these considerations, may judge it proper to impose, so that the fine shall not in any case exceed the sum of one thousand rupees.

3. The Collector or other officer acting in that capacity, who may exercise the powers vested in him by this Regulation, shall previously make a summary inquiry, in the presence of the party charged with disobeying or neglecting the order issued to him, or of his representative, if, on being duly summoned, he shall attend in person, or by vakíl, for that purpose; **Collector to make summary inquiry.**

if he shall fail to attend, either in person or by vakíl, the summary inquiry shall be conducted *ex parte*, and the Collector shall record upon his proceedings the whole of the evidence obtained in proof of the neglect or disobedience for which a fine may be imposed. ***Ex parte* inquiry.**

4. The Collector or other officer who may adjudge a fine under this Regulation, shall be competent to levy the amount by the same process as is authorized for the recovery of arrears of the public revenue. **Fine how levied.**

Provided that if an appeal be preferred from his decision, within six weeks from the date of it, to the Commissioner, and sufficient security be tendered for performing the judgment of the Commissioner upon the appeal, the Collector shall stay the execution of his order for levying the fine imposed by him, until he shall receive the final order of the Commissioner. **Proviso as to appeal.**

5. Appeals from the orders of Collectors or other public officers, adjudging fines under this Regulation, may be preferred either immediately to the Commissioner or through the officer by whom the fine may have been adjudged; **Submission of appeal.**

and, on admission of the appeal, the whole of the proceedings in the case shall be transmitted to the Commissioner.

But no such appeal shall be receivable after the expiration of six weeks from the date of the judgment without proof of sufficient reason for the delay, to the satisfaction of the Commissioner by whom the case may be cognizable. **Limitation.**

REGULATION XI OF 1825,

as modified by Act No. XVIII of 1876.

A Regulation for declaring the rules to be observed in determining claims to lands gained by alluvion, or by dereliction of a river *or the sea.*

2. Whenever any clear and definite usage of shikast paiwast, respecting the disjunction and junction of land by the encroachment or recess of a river, may have been immemorially established, for determining the rights of the proprietors of two or more contiguous estates divided by a river (such **Claims and disputes as to alluvial lands to be decided by usage when clearly recog-**

nized and established.

as that the main channel of the river dividing the estates shall be the constant boundary between them, whatever changes may take place in the course of the river, by encroachment on one side and accession on the other), the usage so established shall govern the decision of all claims and disputes relative to alluvial land between the parties whose estates may be liable to such usage.

Where no usage established, claims how decided.

3. Where there may be no local usage of the nature referred to in the preceding section, the general rules declared in the following section shall be applied to the determination of all claims and disputes relative to lands gained by alluvion or by dereliction of a river.

Land gained by gradual accession from recess of river.

4. *First.*—When land may be gained by gradual accession from the recess of a river, it shall be considered an increment to the tenure of the person to whose land or estate it is thus annexed, whether such land or estate be held immediately from Government by a zamíndár or other superior landholder, or as a subordinate tenure, by any description of under-tenant whatever.

Extent of interest in increment, of person in possession.

Provided that the increment of land thus obtained shall not entitle the person in possession of the estate or tenure to which the land may be annexed, to a right of property or permanent interest therein beyond that possessed by him in the estate or tenure to which the land may be annexed, and shall not in any case be understood to exempt the holder of it from the payment to Government of any assessment for the public revenue to which it may be liable under any law in force for the time being.

Nor, if annexed to a subordinate tenure held under a superior landholder, shall the under-tenant, whether a khudkast raiyat, holding a maurúsí istimrárí tenure at a fixed rate of rent per bígha, or any other description of under-tenant liable by his engagements, or by established usage, to an increase of rent for the land annexed to his tenure by alluvion, be considered exempt from the payment of any increase of rent to which he may be justly liable.

When river by sudden change of course intersects estate.

Second.—The above rule shall not be considered applicable to cases in which a river, by a sudden change of its course, may break through and intersect an estate, without any gradual encroachment, or may by the violence of stream separate a considerable piece of land from one estate, and join it to another estate, without destroying the identity, and preventing the recognition, of the land so removed.

In such cases the land, on being clearly recognized, shall remain the property of its original owner.

Churs thrown up in navigable river.

Third.—When a chur, or island, may be thrown up in a large navigable river (the bed of which is not the property of an individual), and the channel

of the river between such island and the shore may not be fordable, it shall, according to established usage, be at the disposal of Government.

But if the channel between such island and the shore be fordable at any season of the year, it shall be considered an accession to the land, tenure or tenures of the person or persons whose estate or estates may be most contiguous to it, subject to the several provisions specified in the first clause of this section, with respect to increment of land by gradual accession.

Property therein, when channel fordable.

Fourth.—In small and shallow rivers, the beds of which, with the jalkar right of fishery, may have been heretofore recognized as the property of individuals, any sand-bank or chur that may be thrown up shall, as hitherto, belong to the proprietor of the bed of the river, subject to the provisions stated in the first clause of the present section.

Churs, &c., thrown up in small, shallow rivers.

Fifth.—In all other cases, namely, in all cases of claims and disputes respecting land gained by alluvion, or by dereliction of a river, which are not specifically provided for by the rules contained in this Regulation, the Courts of Justice, in deciding upon such claims and disputes, shall be guided by the best evidence they may be able to obtain of established local usage, if there be any applicable to the case, or if not, by general principles of equity and justice.

Disputes relative to lands gained by alluvion or by dereliction not provided for by Regulation.

5. Nothing in this Regulation shall be construed to justify any encroachments by individuals on the beds or channels of navigable rivers, or to prevent Deputy Commissioners, or any other officers of Government who may be duly empowered for that purpose, from removing obstacles which appear to interfere with the safe and customary navigation of such rivers, or which shall in any respects obstruct the passage of boats by tracking on the banks of such rivers, or otherwise.

Encroachments on beds of navigable rivers and other obstructions.

REGULATION XX OF 1825,

as modified by Act No. XVIII of 1876.

A Regulation for declaring the jurisdiction of the military Courts-martial and Courts of Requests, constituted by a recent Act of Parliament, and for modifying some parts of the existing Regulations in conformity thereto.[a]

2. *First.*—If any European British subject who shall be apprehended by or brought before a Magistrate on a charge of murder, rape, robbery, theft or other criminal offence, shall be found on his apprehension to have been, at the time when the offence laid to his charge may have been committed, a commissioned or non-commissioned officer or soldier serving with any body of troops in the service of Her Majesty, at any place within Oudh, or to have been,

Procedure as to European British subjects, attached to army serving within certain limits, when apprehended by

[a] The portions repealed by Acts No. XI of 1841 and No. XVI of 1874 have been omitted.

Magistrates on criminal charges.

when the offence was committed, otherwise subject to the provisions of the Act for punishing mutiny and desertion and for the better payment of the army and their quarters for the time being in force, it shall be the duty of the Magistrate by whom such person so accused may be apprehended, instead of proceeding to hear evidence to the charge, to deliver over such person so charged, together with a statement of the charge brought against him, to the commanding officer of the regiment, corps or detachment to which such accused person shall belong, or to the commanding officer of the nearest military station, for the purpose of his being brought to trial before a Court-martial under the provisions of the said Mutiny Act for the time being in force.

Magistrates to assist in apprehension of persons triable by court-martial, when accused of criminal offences.

Second.—It shall further be the duty of every Magistrate, on a written application being made to him for that purpose by the commanding officer of any regiment, corps or detachment stationed or employed as specified in the preceding clause, to use his utmost endeavour for the apprehension of any British officer, non-commissioned officer, soldier or other person of the description therein alluded to, who may have been charged with the crime of murder, rape, robbery, theft or other criminal offence, and also to give his assistance, and that of the officers under his control, in securing the person so accused.

Magistrates to enforce process for attendance of witnesses, &c., before Courts-martial, on application.

Third.—It is hereby declared, that it shall be competent to the Judge Advocate General or Deputy Judge Advocate, or other person appointed to conduct the proceedings of any Court-martial assembled for the trial of offences under the provisions of the said Mutiny Act, to transmit to the Deputy Commissioner within whose jurisdiction persons whose attendance before such Court-martial is required may reside, any warrant, summons or other process for the attendance of such person; and it shall be the duty of such Magistrate who may be so applied to, to give his assistance and that of the officers under him in the due execution of such process, and generally to aid and assist in the execution of all processes issued by such Courts-martial.

Magistrates not to inquire into criminal charges preferred against certain British subjects.

Fourth.—The several Deputy Commissioners are hereby prohibited from receiving and inquiring into any criminal charge which may be preferred to them against any British commissioned or non-commissioned officer, soldier or other person attached to the army, who may have been regularly brought to trial and acquitted or convicted by the sentence of a Court-martial of such offence;

Proviso as to cases which have not been, and will not be, tried by Court-martial.

provided, however, that in any case wherein it may be ascertained by the Magistrate, on due inquiry, that any person accused of such criminal offence, who may be subject to trial by Court-martial, has not been brought to trial for such offence before a Court-martial, and that no effectual proceedings have been taken, or have been ordered to be taken, against him, then and in that

case it shall be the duty of the Magistrate to report the circumstance for the information and orders of the Governor General in Council, who, if it appear to him proper so to do, will direct the case to be proceeded upon in the ordinary course of law; and the Magistrate, if so authorized, shall be competent to proceed against the offender.

Proceeding against British subjects accused of criminal offences when not attached to army or triable by Court-martial.

Fifth.—Provided always, and it is hereby declared, that nothing contained in the foregoing clauses shall be held to restrict the Magistrates of districts, either in their ordinary capacity of Magistrates or as His Majesty's Justices of the Peace duly qualified, from proceeding under the rules heretofore in force against all British subjects charged with criminal offences, who may not be attached to the army, or subject to be tried for such offences by a Court-martial.

PART II:

LOCAL ACTS OF THE GOVERNOR GENERAL IN COUNCIL IN FORCE IN OUDH.

ACT No. XIX OF 1853, SECTION 26,

as modified by Act No. XVIII of 1876.

An Act to amend the Law of Evidence in the Civil Courts of the East India Company in the Bengal Presidency.

Person absconding, &c., to avoid service of summons, &c., liable for

26. Any person, whether a party to the suit or not, to whom a summons to attend and give evidence or produce a document shall be personally delivered, and who shall, without lawful excuse, neglect or refuse to obey such summons, or who shall be proved to have absconded or kept out of the way to avoid being served with such summons, and any person who, being in Court and upon being required by the Court to give evidence, or produce a document in his possession, shall, without lawful excuse, refuse to give evidence or sign his deposition, or to produce a document in his possession, shall be liable to the party at whose request the summons shall have been issued, or at whose instance he shall be required to give evidence or produce the document, for all damages which he may sustain in consequence of such neglect or refusal, or of such absconding or keeping out of the way, as aforesaid, to be recovered in civil action.[a]

ACT No. XX OF 1856,

as modified by Act No. XVIII of 1876.

An Act to make better provision for the appointment and maintenance of Police Chaukídárs in cities, towns, stations, suburbs and bázárs in the Presidency of Fort William in Bengal.[b]

Preamble.

WHEREAS it is expedient to make better provision for the appointment and maintenance of Police Chaukídárs in cities, towns, stations, suburbs and bázárs

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[a] See *Needham* v. *Fraser*, 1 C.B. 815, 823, per Coltman J.: *Couling* v. *Coxe*, 6 C.B. 703.
[b] The portions repealed by Acts No. XIV of 1870 and No. X of 1872 have been omitted.

in the Presidency of Fort William in Bengal and the territories under the administration of the Chief Commissioner of Oudh ; It is enacted as follows :—

1. The monthly assessment levied under Regulation XXII. 1816, and Act XV of 1837, in any city or station at the time of the passing of this Act, shall continue to be levied until the same shall be revised and altered under the provisions of this Act.

Existing assessment to be levied until revised.

2. The provisions of this Act shall have effect in all cities, stations, towns, suburbs and bázárs in the said Presidency, to which the Local Government may at any time extend the same by notification in the official Gazette :

To what places Act shall apply.

Provided always, that this Act shall not be extended to any agricultural village.

Proviso.

In all places in which this Act is now in force, it shall be deemed to have been extended under the provisions of this section.

3. The Government may, by notification to be published in the official Gazette, unite, for the purposes of this Act, any city, town, suburb, station or bázár, or any part or parts of a city, town, suburb, station or bázár, with any other city, town, suburb, station or bázár, or part or parts of a city, town, suburb, station or bázár ; and in such case all the provisions of this Act applicable to a city, town, suburb, station or bázár shall apply to such union.

Unions may be formed.

4. For the purposes of this Act, the Local Government may define and declare the limits of any city, town, suburb, station, bázár or union, and all occupiers of houses within any such city, town, suburb, station, bázár or union as aforesaid, or within such limits as shall be so defined as aforesaid, shall be liable to be assessed or rated according to the provisions of this Act, for the purpose of maintaining the chaukídárs appointed to be maintained in such city, town, station, suburb, bázár or union.

Government may define limits of cities, towns, &c.

5. If any house be let out in portions to different persons, or be let out to or occupied by lodgers or travellers, the person who shall so let the same, or who shall receive the rents or payments from such persons or lodgers or travellers, shall, for the purposes of this Act, be deemed to be the occupier of such house.

Houses let to lodgers, how assessed.

6. The Magistrate may cause a name to be given to any street and affixed in such place or places as he may think fit, and may also cause a number to be affixed to every house in any street or mahalla, for the purpose of identifying such house ; and if any person shall wilfully remove, obliterate or destroy such name or number, he shall be liable, on conviction by a Magistrate, to a fine not exceeding twenty rupees.

Penalty for removing, &c., name of street or number of house.

7. The Magistrate shall determine the number of chaukídárs to be maintained in any city, town or other such place as aforesaid ; but the number of chaukídárs so to be maintained shall not exceed one to every twenty-five houses.

Magistrate to determine number of chaukídárs. Proviso.

Grades and wages of chaukídárs.

8. The chaukídárs appointed under this Act may be of different grades, and the wages to be paid to the several grades shall be determined by the Magistrate.

Magistrate to determine sum to be raised annually.

9. The Magistrate shall determine the total amount required to be raised in any year in any city, town or other such place as aforesaid, for the purpose of maintaining the chaukídárs appointed to be maintained therein, and for the purposes specified in sections 33, 34, 35 and 36 of this Act, together with such sum as the Magistrate may consider necessary to provide against the contingency of losses from defaulters in the current year, and the amount of losses, if any, actually sustained from defaulters in the preceding year.

Nature of tax to be levied.

10. The tax to be levied in any city, town or other place as aforesaid, for the purposes of this Act, may be either an assessment according to the circumstances and the property to be protected, of the persons liable to the same, or a rate on houses and grounds according to the annual value thereof.

The Local Government, on the report of the Magistrate and Commissioner, shall determine in each case whether the tax to be levied shall be such assessment or such rate.

Limitation of tax.

11. If the tax be an assessment, according to the circumstances and the property to be protected, of the persons liable to the same, the amount assessed in respect to any one house shall not be more than the pay of a chaukídár of the lowest grade.

If the tax be a rate on houses and grounds, it shall not exceed five per centum of the annual value thereof.

Rate how ascertained.

12. For the purpose of making a rate under this Act, the annual value of the houses and grounds liable to the rate shall be computed and ascertained upon an estimate of the gross annual rent at which the same might reasonably be expected to let from year to year.

Grounds used for purposes of trade shall be liable to the rate, but grounds used for the purpose of cultivation or for depasturing cattle shall not be liable.

Magistrate may exempt occupiers unable to pay.

13. The Magistrate may, at his discretion, exempt from the assessment or rate, or may relieve from the payment of his assessment or rate, any occupier who may be unable from poverty to pay the same.

Constitution of pancháyats.

14. For the purposes hereinafter mentioned, the Magistrate shall constitute and appoint a panchayat for each such city, town or other place as aforesaid, or, when he may see fit to divide any such city, town or place into convenient divisions, for each division thereof, and shall issue a sanad of appointment, specifying the names, residence, business or other description of the persons appointed and the period for which the appointment is made.

Every pancháyat shall consist of three or five respectable persons residing or carrying on business in or near to any such city, town or other place, or in or near to any such division thereof:

Provided that, instead of any one such person, the Magistrate may appoint any person whom he may think fit to be a member of the pancháyat, notwithstanding such person may not reside or carry on business in or near to such city, town or other place, or in or near to any such division thereof.

Magistrate may appoint non-resident person to be member.

15. The pancháyat so appointed, or the majority of them, shall, once in every year, if required so to do by the Magistrate, prepare and make, in accordance with the rules laid down in the requisition, an assessment or rate upon the several persons liable to be assessed or rated in respect of their occupation of property within the district (whether city, town or other place as aforesaid, or any division thereof) for which the pancháyat shall be appointed, and shall enter the same in a list which shall specify the names of the several occupiers of property within the district liable to be assessed or rated under the provisions of this Act, the trade, business or other description of such occupier, the property occupied, and the amount payable monthly by such occupier.

Duties of pancháyat.

If the tax be a rate on the annual value of the property occupied, such annual value and the total amount of the annual rate shall also be specified.

The requisition of the Magistrate to the pancháyat to make out such list shall be in the form marked A or B, as the case may be, set forth in the appendix to this Act annexed, or to the like effect.

Magistrate's requisition.

16. The pancháyat shall, if required by the Magistrate so to do, instead of making a new assessment or rate, revise and amend the assessment or rate then in force.

Pancháyat may revise existing assessment or rate.

17. When an assessment or rate shall have been made or revised, as the case may be, the pancháyat shall forward to the Magistrate the list containing the same; and the Magistrate shall revise, and, if necessary, amend and settle it.

Magistrate may amend and settle assessment or rate as revised.

18. When the assessment or rate shall have been settled, the Magistrate shall sign the list, and shall cause one copy thereof, together with a notification prepared according to the form marked C in the appendix to this Act, or to the like effect, and written in the language of the province in which the city, town or place is situate, to be stuck up in some conspicuous place in the district for which the assessment or rate has been made; and another copy, together with a like notification, at the nearest Police thána; and shall also cause a third copy to be deposited in his own office.

Assessment or rate to be published.

19. Unless revised or corrected as hereinafter provided, every assessment or rate under this Act shall stand good for one whole year, and until a new

Assessment or rate to stand good for one

year. Effect of change of occupation before new assessment or rate.

one is made; and in case the occupier of any property included in any assessment or rate shall be changed before a new one is made, the new occupier shall be liable in respect of such property for any portion of the assessment or rate which shall have become payable during his occupation instead of the former occupier thereof; and, after notification to such person, the Magistrate may cause his name to be substituted in the said list for the name of the former occupier.

Revised assessment or rate deemed new.

Every assessment or rate which shall be revised according to the provisions of section 16 shall be deemed a new assessment or rate.

Continuance of assessment of past year.

Provided always that, if no new assessment or rate is made within the first three months of any year, the list of the previous year shall be republished according to the provisions of section 18, and shall thereupon be deemed to be the assessment or rate for the current year, and shall be open to appeal under the next succeeding section.

Appeal from assessment or rate.

20. Any person assessed or rated, who shall be dissatisfied with his assessment or rate, or who shall dispute his occupation of any property, or his liability to be assessed or rated, may appeal on unstamped paper to the Magistrate, and the Magistrate, after making such inquiries as he deems necessary, by examination of the appellant on oath or solemn affirmation, or otherwise, may confirm the assessment or rate or amend the same.

Award of costs.

In case the Magistrate confirm the assessment or rate, he may award costs against the appellant.

Decision on appeal. Bar of jurisdiction.

The decision of the Magistrate in such cases shall be final, and no objection shall be taken to any assessment or rate, nor shall the liability of any person to be assessed or rated be questioned in any other manner or by any other Court:

Limitation of appeal.

Provided that no appeal shall be received after the expiration of one month from the time of the notification of the assessment or rate prescribed by section 18, or of the notification of the substitution of the name of an occupier under section 19, unless the Magistrate, upon reasonable cause shown, shall extend the time for receiving such appeal.

Commissioner may direct revision of assessment or rate.

21. The Commissioner, with the consent of the Local Governnent, may at any time direct the Magistrate to revise the assessment or rate of any city, town or other place as aforesaid, specifying the reasons which, in his opinion, render such revision necessary, and the Magistrate shall, according to such direction, revise and, if necessary, amend the same.

Magistrate may direct revision at any time of year, for reasons stated.

22. The Magistrate may require the panchâyat to revise the assessment or rate at any period during the year; but on every such occasion he shall address a written order to the panchâyat, specifying the reasons which render such revision necessary, and requiring an amended return within a stated period.

23. Whenever any assessment or rate is revised during the year as provided in the two last preceding sections, a revised list, together with a notification as prescribed in section 18, shall be prepared and published in the manner therein directed.

Publication of assessment or rate as revised.

And all objections to such revised assessment or rate shall be made and dealt with in the manner prescribed in section 20.

Objections.

24. If any person appointed a member of a pancháyat refuse to undertake the office, or omit to perform the duties thereof, and do not, within fifteen days from the date of his appointment, show satisfactory grounds for his refusal or omission, or provide such a substitute as the Magistrate approves, the Magistrate may fine such person in a sum not exceeding fifty rupees.

Penalty for refusal to serve on pancháyat.

25. If the persons appointed a pancháyat, or a majority of them, refuse or omit, for a period of fifteen days after the receipt of an order from the Magistrate, to perform the duties required of them, the Magistrate may himself make or revise the assessment or rate, and may enforce the same as if it had been made or revised in the first instance by the pancháyat:

If pancháyat refuse or omit to act, Magistrate may assume their functions.

Provided that the functions of the pancháyat shall not thereby absolutely cease and determine, but may be resumed at any time, only not so as to invalidate any act done by the Magistrate under this section.

Proviso.

26. No person shall be bound to act on a pancháyat unless he shall reside or carry on business within the limits of the district for which the pancháyat is to be appointed.

Residents only bound to act on pancháyat.

27. Every pancháyat shall be appointed for the period of one year, and no person shall be compelled to serve on a pancháyat for more than one year at a time, or within less than three years after the expiry of previous service; but nothing in this section shall prevent any person from being appointed to serve on a pancháyat at any time whatsoever with his own consent.

Duration of pancháyat and limitation of service thereon.

28. If a majority of the persons assessed or rated in any district for which a pancháyat shall be appointed, not being in arrear, make application in writing to the Magistrate for the removal of any member of the pancháyat appointed for such district, the Magistrate, if he think it expedient, may remove such member from the pancháyat.

Member of pancháyat removeable only on application of rate-payers.

29. If any vacancy shall occur among the members of a pancháyat, or if any member appointed shall refuse or decline or be unable to act, the Magistrate may nominate and appoint another person to supply the vacancy or to act in the stead of such member, subject to the rules already laid down as to the original appointment of members; but such appointment may be made by a written communication to the person appointed, and it shall not be necessary to issue a new sanad under section 14 of this Act.

Vacancies in pancháyat how supplied.

30. The pancháyat shall give notice to the Magistrate of any neglect or

Pancháyat to report miscon-

duct of chaukídárs, or death or absence.

misconduct on the part of any chaukídár within the district for which they are appointed, which shall come to their knowledge; and shall also give notice of any vacancy which shall occur in consequence of the death or absence of any chaukídár or from any other cause.

Appointment and duty of sadr pancháyat.

31. In cities and large towns containing three or more divisions or districts, the Magistrate may appoint a sadr pancháyat consisting of not less than five members, who may be selected either from the members of the local pancháyats or from any other residents of the city or town.

It shall be the duty of the sadr pancháyat to assist the Magistrate, when required so to do, in carrying out generally the objects of this Act, and particularly in revising the assessment or rate made by the district pancháyats and enquiring into and reporting on appeals preferred against the same.

Appointment and registry of chaukídárs.

32. The chaukídárs to be employed under this Act shall be appointed by the Magistrate, and the Magistrate shall cause to be kept a register in which shall be entered the name, age, place of residence and previous occupation of every person so appointed, with the date of his appointment.

Appointment of jamadárs and inspectors.

33. Subject to the approval of the Commissioner, the Magistrate may appoint such number of jamadárs and inspectors as may be necessary for the supervision and control of the chaukídárs:

Their number.

Provided that the number of these officers shall not be greater than one jamadár to fifteen chaukídárs, and one inspector to sixty chaukídárs.

Appointment of tax-collectors and other establishment.

34. Subject to the approval of the Commissioner, the Magistrate may appoint one or more tax-collectors or dároghas, and such other servants as may be necessary for preparing or assisting the pancháyat in preparing the assessment or rate, for copying the same, for collecting the tax, keeping the accounts and records and otherwise carrying out the purposes of this Act.

Security.

The Magistrate shall take from every tax-collector or dárogha such security for the due disposal of the sums collected by him as may be thought necessary.

Contingent expenses.

35. The Magistrate may further incur any reasonable expense in the purchase of stationery, in providing badges, dresses and weapons for the chaukídárs, and for any other contingencies that may seem to him necessary.

Surplus-funds may be devoted to conservancy-purposes.

36. After paying the wages of the chaukídárs and defraying the charges specified in the three last preceding sections of this Act, the Magistrate may, with the sanction of the Commissioner, appropriate any sum which may be available, to the purpose of cleansing the city, town or place, or of lighting or otherwise improving the same.

Register of assessments.

37. The tax-dároghas shall prepare, from the lists hereinbefore mentioned, a register, which shall be attested by the Magistrate or his deputy or assistant, and shall contain the names of all persons assessed or rated so far as they can

be ascertained, the property in respect of which the assessment or rate in each case is imposed, and the amount payable monthly by each person.

Collection of assessment.

38. On such dates as may be fixed by the panchâyats for payment of instalments of the tax, the tax-dárogha shall proceed in person or through some one of his office establishment, to collect the amount due for the current month from each person subject to the tax; and for all sums so collected the dárogha shall grant a receipt:

Provided that, with the sanction of the Commissioners previously obtained, the collection may be made quarterly instead of monthly; and in such case, the amount due for each quarter shall be collected in the last month of that quarter.

Remittance of collections.

39. The tax-dárogha shall remit to the Magistrate, in such manner as the Magistrate shall direct, all sums of money collected either by himself or by any one of his establishment, and the Magistrate or some officer of his establishment authorized on that behalf, shall give the dárogha a receipt for every sum of money so remitted.

The Magistrate shall also cause all such sums of money to be credited to a separate fund, to be called the Chaukídári Fund of the city, town or place in or on account of which they are collected.

40. [*Omitted under Act No. XVIII of* 1876.]

Report of defaulters to Magistrate.

41. On the tenth day after the date fixed for the payment of instalments of the tax or as soon after as possible, the tax-dárogha shall deliver or transmit to the Magistrate, in one list, a statement of all defaulters, the property in respect to which they are assessed or rated, the amount of the monthly assessment or rate, and the amount due from each.

Summoning defaulters.

42. On receipt of the aforesaid list, the Magistrate shall issue a summons against each of the defaulters therein mentioned, requiring him either to pay the demand or to attend at the kachahrí of the Magistrate within a reasonable time, to be specified in the summons, to show cause for his refusal.

Assessment to be levied from defaulters by distress and sale.

43. If any defaulter fail to appear in answer to the summons, or having appeared, fail to satisfy the Magistrate that no arrear is due from him, the Magistrate may issue a warrant to the tax-dárogha, authorizing him to levy the whole or any part of the demand by distress and sale of any goods and chattels belonging to the defaulter, or being at any time upon the premises in respect of which the arrear is due; and the Magistrate's order as contained in the warrant shall be final.

Sale how conducted.

44. The tax-dárogha shall make an inventory of all goods and chattels seized under the Magistrate's warrant, and shall give previous notice of the sale and the time and place thereof, by beat of drum, in the district in which the property is situated.

If the arrear be not paid with costs, or the warrant be not in the meantime discharged or suspended by the Magistrate, the goods and chattels seized shall be sold at the time and place specified, in the most public manner possible; and the proceeds shall be applied in discharge of the arrears and costs, and the surplus, if any, shall be returned on demand to the person in possession of the goods and chattels at the time of the seizure.

Proceeds how applied.

Returns of sale. Costs.

The tax-dárogha shall make a return of all such sales to the Magistrate in the form specified in appendix D, and the costs upon every such proceeding shall be such as are mentioned and set forth in appendix E annexed to this Act.

Penalty for tax-dárogha purchasing at such sales.

45. Any tax-dárogha or other servant appointed under this Act, and any chaukídár or officer of Police, who shall purchase any property at any such sale as aforesaid, shall be liable, upon conviction before a Magistrate, to a penalty not exceeding fifty rupees; and the property shall be confiscated.

Sale of property beyond limits of town, &c.

46. If no sufficient goods or chattels belonging to a defaulter, or being upon the premises in respect of which he is assessed or rated, can be found within the district in which the premises are situate, the Magistrate may issue his warrant to the Názir of his Court for the distress and sale of any personal property or effects belonging to the defaulter within any other part of the jurisdiction of the Magistrate, or for the distress and sale of any personal property belonging to the defaulter within the jurisdiction of any other Magistrate whatsoever; and such other Magistrate shall back the warrant so issued, and cause it to be executed, and the amount, if levied, to be remitted to the Magistrate issuing the warrant.

Goods liable to distress.

47. All goods and chattels, except tools or implements of trade, which may be found upon any premises in respect of which an arrear is due, shall be liable to be distrained for the recovery of such arrear.

Owner of goods to be indemnified by defaulter.

If the goods and chattels belong to any person other than the defaulter, the defaulter shall indemnify the owner of such goods and chattels from any damage he may sustain by reason of such distress, or by reason of any payment he may make to avoid such distress, or any sale under the same:

Limit to distress.

Provided that no distress shall be made for any arrears due under this Act, after the expiration of six calendar months from the time when such arrears became due.

Penalty for obstructing tax-dárogha in execution of duty.

48. Every person who shall wilfully obstruct or molest any tax-dárogha or any of his establishment in the performance of their duties under this Act, or shall fraudulently conceal, remove or dispose of any of his property for the purpose of avoiding a distress under the provisions of this Act, or shall knowingly assist any other person in so doing, shall be liable, on conviction before a Magistrate, to a penalty not exceeding fifty rupees.

49. The Magistrates shall receive and try all complaints preferred on oath or solemn affirmation against any tax-dárogha or other person appointed under this Act for extortion, malversation, or other misconduct in the discharge of his duty.

Magistrates to try complaints against tax-dárogha for extortion, &c.

On proof of any such offence, the tax-dárogha or other person as aforesaid shall be liable to dismissal from office, and to imprisonment, with or without labour, for a period not exceeding six months, and may also be compelled to refund any money corruptly or unduly exacted or received, and to deliver up any effects which may have been illegally distrained or sold, or the value thereof, or in default and until such delivery or refund be made, shall be liable to further imprisonment, with hard labour, for not more than six months.

Penalty for extortion, &c.

But nothing in this section shall be taken to prevent the Magistrate from committing any tax-dárogha or other person as aforesaid for trial before the Sessions Court, or to limit the power of the Sessions Court in regard to the punishment of such offences under the general law.

Saving of power to commit.

50. The chaukídárs, and the jamadárs and inspectors appointed under this Act, shall exercise all the powers, and perform all the duties, and be subject to all the liabilities, of Police officers as prescribed in the general Regulations of the Bengal Code or Acts of the Government of India for the time being in force, so far as such powers, duties and liabilities are not inconsistent with, or otherwise expressly provided for by, this Act.

Powers, duties and liabilities of chaukídárs, jamadárs, and inspectors.

The chaukídárs and the jamadárs and inspectors are in all respects subordinate to the Police dárogha of the thána within the limits of which they may be employed.

51. Every chaukídár appointed under this Act shall wear a badge with a number, and the name of the city, town, place or division for which he is appointed, engraved thereon.

Chaukídárs to wear badges.

52. Every chaukídár and every jamadár and inspector appointed under this Act shall have power, without warrant, to apprehend and convey immediately to the nearest police-station any person or persons taken in the act of committing any heinous offence, or whom he shall have just cause to suspect to be about to commit or to have committed a heinous offence, or against whom a hue and cry shall be raised:

Power of chaukídárs—

to arrest without warrant:

Second.—He shall have power to prevent obstructions and nuisances on the roads and streets:

to prevent nuisances:

Third.—He shall give immediate intelligence to the Police dárogha of the resort to his division of any receivers of stolen goods, or of any robbers or other persons of notorious or suspected character, or of any circumstances likely to occasion a breach of the peace:

to give intelligence of resort of thieves, &c.

Fourth.—He may stop, examine, and if necessary detain, any person who

to examine

and detain suspected persons.

shall be reasonably suspected at any time of having or conveying any thing stolen, or who shall be found between sunset and sunrise lying or loitering in any highway, yard or other place, and unable to give a satisfactory account of himself, and may convey such person to the nearest police-station.

Assistance to chaukídárs in making arrests.

53. If a chaukídár or other Police officer be unable to effect an arrest, he may require all persons present to assist him; and any person who refuses or neglects to comply with such requisition shall be liable, on conviction by a Magistrate, to a fine not exceeding fifty rupees, or to imprisonment not exceeding two months.

Chaukídárs, &c., how paid.

54. On the fifteenth day of each month, or on such other day not later than the fifteenth day of the month as the Magistrate may appoint, the chaukídárs and the jamadárs and inspectors (if any) shall be mustered at the thána to which they are attached, and the Police dárogha or muharrir of the thána shall there pay them the wages due to them up to the close of the preceding month, and shall at the same time take the receipt of each chaukídár in an official register of receipts prepared for the purpose; and the dárogha, after signing the register in attestation of its correctness, shall transmit the same to the Magistrate.

Punishment of officers for neglect of duty, &c.

55. Any chaukídár and any jamadár or inspector appointed under this Act, who is convicted of neglect of duty or misconduct, shall be liable to fine to an extent not exceeding half a month's wages, or to imprisonment for any period not exceeding six months.

Suspension or dismissal of Police officers.

56. The Magistrate may suspend or dismiss any officer appointed under this Act, whom he shall think remiss or negligent in the discharge of his duty, or otherwise unfit for the same.

Fines how disposed of.

57. All fines levied under this Act shall be credited to the Chaukídárí Fund and held available for the purposes of this Act.

58. [*Repealed by Act No. X of* 1872.]

Control over proceedings of Magistrate and Commissioner.

59. All the proceedings of a Magistrate under this Act, except as otherwise specially provided, shall be subject to the control of the Commissioner; and all the proceedings of the Commissioner shall be subject to the control of the Local Government.

Act not apply to Calcutta.

60. Nothing contained in this Act shall extend to the town of Calcutta.

Interpretation-clause.

61. Wherever in this Act, or in any appendix thereto, there is nothing in the context requiring a different interpretation—

the word "Magistrate" shall include a Joint-Magistrate and any person lawfully exercising the powers of a Magistrate:

the word "House" shall include any shop or warehouse:

the word "Bázár" shall mean any place of trade where there is a collection of shops or warehouses:

the word "District" shall mean a city, town, bázár or union, or any division thereof:

the expression "Police Dárogha" shall include any Tahsíldár or Náib Tahsíldár entrusted with Police jurisdiction.

APPENDIX A.

To

[*Here insert the names, places of abode, business or other description of the pancháyat.*]

I do hereby require you, the pancháyat appointed under Act XX of 1856, with all reasonable expedition, not exceeding *(here insert a period to be fixed by the Magistrate)* from the date hereof, to make out and forward to me, the undersigned Magistrate of the zila of , a fair and equitable assessment upon the several occupiers of houses, shops and buildings, in the *(here describe the city, town, place or division)*, for the purpose of raising the sum of rupees required for the maintenance of chaukídárs for the year commencing on and other expenses authorized by Act XX of 1856. You shall regulate and determine the amount of assessment to be levied from every such occupier according to the circumstances and the property to be protected of each person. But the amount assessed in respect of any one house shall not exceed rupees *(here insert the pay of a chaukídár of the lowest grade)*.

If the occupier of any house in the said district shall be unable, on the ground of poverty, to pay the assessment to which he is liable under this Act, you shall exempt him from the same; but the property occupied, together with the name and description of such occupier, shall be specified in the list, together with the ground of exemption.

If any house be let out in portions to different persons, or be let out to, or occupied by, lodgers or travellers, the person who shall so let the same, or who shall receive the rents or payments from such persons or lodgers, or travellers, shall be deemed the occupier of such house and shall be assessed accordingly.

The assessment which you are hereby required to make shall specify the name of every occupier of property liable to be assessed, the name, trade or business or other description, of the person assessed, the annual assessment,

and the quota payable monthly ; and may be in the following form, or to the like effect :—

Property occupied.	Name of occupier.	Profession or business or other description.	Amount of monthly payment.

APPENDIX B.

To

[*Here insert the names, places of abode, business or other description of the panchâyat.*]

I do hereby require you, the panchâyat appointed under Act XX of 1856, with all reasonable expedition, not exceeding (*here insert a period to be fixed by the Magistrate*) from the date hereof, to make out and forward to me, the undersigned Magistrate of the zila of , a fair and equal rate upon the several occupiers of houses, shops and buildings, and of grounds occupied for the purpose of trade or business, in the (*here describe the city, town, place or division*), for the purpose of raising the sum of rupees
required for the maintenance of chaukídárs for the year commencing on
and other expenses authorized by Act XX of 1856. You shall regulate and determine the amount of the rate to be levied from every such occupier according to the annual value of the property occupied.

The rent at which any such property may reasonably be expected to let for one year shall be deemed the annual value of such property. The rate shall be an equal percentage, not exceeding five per cent., of such annual value.

Any person occupying ground for the purpose of trade is to be rated in respect thereof, but a person occupying ground for the purpose of cultivation or for depasturing cattle is not to be rated in respect thereof.

If the occupier of any house or ground in the said district shall be unable, on the ground of poverty, to pay the rate to which he is liable under this Act, you shall exempt him from the same; but the property occupied, together with the name and description of such occupier, shall be specified in the list, together with the ground of exemption.

If any house be let out in portions to different persons, or be let out to, or occupied by, lodgers or travellers, the person who shall so let the same, or

who shall receive the rents or payments from such persons, or lodgers or travellers, shall be deemed the occupier of such house, and shall be rated accordingly.

The rate which you are hereby required to make shall specify the name of every occupier of property liable to be rated, the name, trade or business or other description, of the person rated, the annual rateable value of the property, the annual rate, and the quota payable monthly; and may be in the following form, or to the like effect:—

Property occupied.	Name of occupier.	Profession or business or other description.	Annual value of property.	Annual rate.	Amount of monthly payment.

APPENDIX C.

An assessment (*or* rate, *as the case may be*), made for (*here describe the city, town, village or other place or division for which the rate is made*) upon the several occupiers of houses and other property in the said district, pursuant to Act XX of 1856, for the purpose of maintaining chaukídárs for such district.

Property occupied.	Names of occupiers.	Profession or business.	Amount of monthly (*or* quarterly) assessment (*or* rate).

Whereas the above assessment (*or* rate, *as the case may be*) has been duly made pursuant to Act XX of 1856, and has been revised and settled by me, the undersigned Magistrate of , the several persons whose names are included in the said assessment (*or* rate) are hereby required to pay the monthly (*or* quarterly) contributions set opposite to their names with regularity

to the tax-dárogha or other person appointed by the Magistrate to receive the same (*if the tax is to be collected quarterly, the months in which the payment is to be made must be specified*), or in default thereof, any arrear that may be due will be realized by distraint and sale of the personal effects of the defaulter, or of any goods and chattels which may be found on the premises in respect of which such defaulter is assessed (*or* rated) and such other proceedings adopted for the recovery of the same as are allowed by law.

Dated this day of

Magistrate of

APPENDIX D.

1	2	3	4	5	6	7	8	9	10	11
District.	Names of defaulters.	Amount of defalcation.	Amount, cost, or penalty.	Inventory of property seized under distress.	Date of distress.	Date of sale.	Property sold.	Amount realized on each article.	Purchaser's name.	Balance.

APPENDIX E.

Table of Fees payable in Distraints under this Act.

Sum distrained for	Fee.	
	Rs.	As.
Under 1 rupee	0	4
1 and under 3 rupees	0	8
3 „ 5 „	1	0
5 „ 10 „	1	8
10 „ 15 „	2	0
15 „ 20 „	2	8
20 „ 25 „	3	0
25 „ 30 „	3	8
30 „ 35 „	4	0
35 „ 40 „	4	8
40 „ 45 „	5	0
45 „ 50 „	5	8
50 „ 60 „	6	0
60 „ 80 „	7	8
80 „ 100 „	9	0
Above 100 „	10	0

The above charge includes all expenses, except when peons are kept in charge of property distrained, in which case three annas must be paid daily for each man.

ACT No. XIII OF 1857.

Received the Governor General's assent on the 6th of June 1857.

An Act to consolidate and amend the law relating to the cultivation of the poppy and the manufacture of opium in the Presidency of Fort William in Bengal and the territories under the administration of the Chief Commissioner of Oudh.

Preamble.

WHEREAS the existing law relating to the cultivation of the poppy and the manufacture of opium on account of Government is in some respects inconsistent with the practice which now obtains under agreement between the Opium Agents and the cultivators, and it is expedient that such inconsistency should be removed; and whereas it is also expedient that certain obsolete Regulations relating to the provision of opium should be formally repealed, and that the laws for preventing the illicit cultivation of the poppy, and for regulating the cultivation of the poppy and the manufacture of opium on account of Government, should be consolidated and amended; It is enacted as follows:—

1. [*Repealed by Act No. XIV of* 1870.]

2. [*Repealed from* 1*st April* 1877, *by Act No. XIX of* 1876.]

Officers to be entrusted with superintendence of provision of opium.

3. The superintendence of the provision of opium for Government shall be entrusted to Agents or other officers, duly appointed by Government in that behalf, who shall perform the duties connected therewith under the control and direction of the Board of Revenue in Calcutta.

Assistants to Agents.

The Agents or other officers as aforesaid, shall be assisted by Deputy Agents and Sub-deputy Agents, or such other officers, covenanted or uncovenanted, as the Government may from time to time appoint for the purpose.

Collector *ex officio* Deputy Agent.

The Collector of the district shall ordinarily, and unless Government shall otherwise direct, be *ex officio* Deputy Agent; and the relative duties and powers of the Deputy Agents and Sub-deputy Agents shall be from time to time regulated by the said Board with the sanction of Government.

Officers amenable to Civil Courts.

4. The Opium Agents, and their subordinate officers of every description, are declared amenable to the Civil Courts for all acts done by them in their official capacity, except as otherwise herein provided.

Bar of suit without previous application to Agent for redress.

But no suit shall be instituted against an Agent, or any subordinate officer, for any act done in his official capacity, unless the person who shall consider himself aggrieved by the act of such Agent or officer shall have first made application for redress to the Agent himself.

In the event of such person not being satisfied with the order which the Agent may pass upon his application, it shall then be competent to him either to lay his case by petition before the Board of Revenue, or at once to seek redress in the Civil Court.

Sanction to suit by Agent.

5. The Opium Agents shall not in their official capacity institute any suit in a Civil Court without the previous sanction of the Board of Revenue.

Board may in certain cases appoint officer to conduct or defend suits.

6. In cases in which the Board of Revenue may judge it expedient, or in which they may be so directed by Government, they may take upon themselves, or intrust to an officer specially appointed for the purpose, the superintendence of the prosecution or defence of any suit or appeal in which they or an Agent, or any other officer subordinate to them, may be engaged, instead of leaving such superintendence to the Agent or any other officer.

Board to fix limits of cultivation and price to be paid to cultivators.

7. The Board of Revenue, with the sanction of Government, shall from time to time fix the limits within which licenses may be given for the cultivation of the poppy on account of Government.

With the like sanction they shall from time to time fix the price to be paid to the cultivators for the opium produced.

The price shall be fixed at a certain sum per ser of eighty tolas for opium of a certain standard consistence, and shall be subject to a rateable reduction, according to a scale sanctioned by the Board of Revenue, for opium of a consistence below the standard.

Issue of licenses.

8. The Sub-deputy Agents or other officers entrusted with the superintendence of the cultivation, shall, at the proper period of the year, issue licenses to the cultivators who may choose to engage to cultivate the poppy, and to deliver the produce to the officers of Government at the established rates.

What to be specified in license.

Every license shall specify the number of bíghás which the party engages and is authorized to cultivate, and shall be in such form as the Agent, with the sanction of the Board of Revenue, may direct.

A counterpart-engagement, in conformity with the tenor of the license, shall be taken from the cultivator.

Cultivator to have option to engage to cultivate or not.

9. It shall be at the option of every cultivator to enter into engagements for the cultivation of the poppy or not as he may think fit; and any Sub-deputy Agent or other officer as aforesaid, or any inferior officer employed in the provision of opium, who shall compel, or use any means to compel, any cultivator to enter into engagements, or to receive advances, for the cultivation of the poppy, shall be liable to be dismissed from his situation.

Officers compelling cultivator to engage liable to be dismissed.

It shall be at the option of the Sub-deputy Agent or other officer as aforesaid, to withhold a license from any cultivator whenever he may think proper so to do.

Sub-deputy Agent may withhold license to cultivate.

Any person to whom a license has been refused may appeal to the Agent, and the decision of the Agent shall be final.

Appeal.

10. If it shall be found that any cultivator who has received advances from Government has not cultivated the full quantity of land for which he received such advances, he shall be liable to a penalty of three times the amount of the advances received for the land which he has failed to cultivate; and the said penalty may be adjudged by the Deputy Agent or Collector, on the complaint of the Sub-deputy Agent or other officer as aforesaid.

Penalty on cultivator receiving advances and not cultivating full quantity of land. Adjudication of penalty.

Any person dissatisfied with the judgment of the Deputy Agent or Collector may appeal to the Agent, and the decision of the Agent shall be final.

Appeal.

11. All opium the produce of land cultivated with poppy on account of Government, shall be delivered by the cultivators to the Sub-deputy Agents or other district officers, or shall be brought by them to the sadr factory, as the Agent may direct.

Delivery of opium produced.

And no such opium shall be liable to be distrained or attached by a zamíndár or other proprietor, or a farmer of land, for the recovery of arrears of rent, or by any other creditor of a cultivator under any order or decree of Court, but the sum due to the cultivator on account of such opium may be attached by order of Court in the hands of the Agent or of the district officer under the rules in force for such attachments.

Opium not liable to distress or attachment.

Value thereof may be attached.

12. All opium delivered by the cultivators to the Sub-deputy Agent or other district officer, shall, before it is forwarded to the sadr factory, be weighed, examined and classified according to its quality and consistence by that officer, or his assistant if duly authorized by the Agent in that behalf, in the presence of the cultivators and in conformity with rules sanctioned by the Board of Revenue.

Opium to be weighed and classified by Sub-deputy Agent.

Any cultivator who may be dissatisfied with the classification of the district officer, shall be at liberty, either to take his opium to the sadr factory, or to have it forwarded thither by such officer separate from the opium respecting which no dispute has arisen.

Proceeding where cultivator is dissatisfied with classification.

13. All opium forwarded by the district officers to the sadr factory, and all opium delivered at the sadr factory by the cultivators, shall be there weighed and examined by the Opium Examiner, or other officer duly authorized in that behalf, agreeably to rules sanctioned by the Board of Revenue; and the quality and consistence of the opium, and the deductions from or additions

Weighing and examination at sadr factory.

(if any) to the standard-price, to be made in accordance with the said rules, shall be determined by the result of such examination.

The decision of the Examiner, or of the Agent in cases in which a reference to the Agent may be prescribed by the said rules, shall be final and conclusive, and not open to question in any Court.

Confiscation of adulterated opium.

14. When opium delivered by a cultivator, either to a district officer, or at the sadr factory, is suspected of being adulterated with any foreign substance, it shall be immediately sealed up pending examination by the Opium Examiner, and notice of such intended examination shall be given to the cultivator.

Adjudication of confiscation.

If upon such examination the opium shall be found to be so adulterated, the Agent, on the report of the Examiner, may order that it be confiscated; and the order of the Agent shall be final, and not open to question in any Court.

Weights and scales.

15. The weights and scales made use of in the sadr factories, and at the district koṭhís, shall be provided by the Board of Revenue.

Examination thereof.

Every district officer shall annually, before beginning to weigh the opium of the season, examine the weights and scales in use in his district, and shall report the result of such examination to the Agent.

The Agent shall make a similar examination of the weights and scales of the sadr factory, and shall report the result to the Board.

No weights or scales shall be made use of which on any such examination have not been found to be strictly accurate.

It shall be the duty of all officers who may superintend the weighing of opium, to see that the opium is weighed fairly with an even beam, and the practice of taking excess weight for the purpose of turning the scale, or as an allowance for dryage and wastage, is hereby prohibited.

Adjustment of cultivator's accounts, and recovery of balance by distress.

16. The accounts of the cultivators shall be adjusted annually by the district officers as soon after the conclusion of the weighing and examination as possible; and any balance that may remain due from any cultivator, or from any mahto or intermediate manager, may be recovered by the district officer by distress and sale of the property of the defaulter or of his surety, in the same manner and under the same rules as the property of defaulting cultivators in estates held khás may be distrained and sold by the Collector for the recovery of an arrear of rent or revenue:

Sanction to issue of warrant.

Provided that no warrant of distress and sale shall be issued by any district officer without the sanction of the Agent previously obtained.

Penalty on officer taking bribes.

17. Any officer of the Opium Department who shall receive any fee, gratuity, perquisite or allowance, either in money or effects, under any pretence whatsoever, from any cultivator, or from any other person employed or con-

cerned in the provision of opium, other than the authorized allowances of his situation, shall be dismissed from his office, and, on conviction before a Magistrate, shall be liable to a fine not exceeding five hundred rupees.

Exactions by landholder from raiyat recoverable, together with penalty, in summary suit before Collector.

18. If any zamíndár or other proprietor of land, or any farmer of land, shall exact from any raiyat on account of his poppy-land any illegal cess or any higher rate of rent than he is lawfully entitled to demand, the raiyat, or the Sub-deputy Agent or other district officer on his behalf, may institute a suit before the Collector, and recover from such proprietor or farmer the sum exacted by him in excess of his lawful demand, together with a penalty of treble the amount of such excess; and such suit shall be tried according to the rules prescribed for suits instituted before a Collector relating to arrears or exactions of rent.

Penalty for embezzlement of opium by cultivator.

19. Any cultivator entering into engagements for the cultivation of the poppy on account of Government, who may embezzle, or otherwise illegally dispose of, any part of the opium produced, shall be liable to a penalty not exceeding ten times the fixed price of the opium which he may be proved to have so disposed of, or to a fine not exceeding five hundred rupées if the amount of the said penalty be less than that sum, and the opium, if found, shall be liable to confiscation.

Penalty for illegal purchase of opium from cultivator.

20. Any person purchasing or receiving any opium from a cultivator or other person who may have entered into engagements for the cultivation of the poppy, or who may be employed in the provision of opium on account of Government, or bargaining for the purchase of opium with such cultivator or person, or in any way causing or encouraging such cultivator or person to embezzle or illegally dispose of any opium, and any officer of the Opium Department conniving in any way at the embezzlement or illegal disposal of any opium, shall be liable to a fine not exceeding one thousand rupees, unless the opium purchased, bargained for, or illegally disposed of, shall exceed the weight of thirty-one sers and a quarter, in which case the fine may be increased, at a rate not exceeding thirty-two rupees per ser for all such opium in excess of that weight; and the opium, if found, shall be liable to confiscation.

And for illegal connivance at embezzlement by an opium officer.

Penalty for unlicensed cultivation.

21. Any person who shall cultivate the poppy without license from a Sub-deputy Agent or other officer duly authorized in that behalf, and any person who shall in any way cause, encourage or promote such illegal cultivation, shall be liable to a fine not exceeding five hundred rupees, unless the quantity of land so illegally cultivated shall exceed twenty bíghás, in which case the fine may be at the rate of twenty-five rupees per bíghá; and the poppy-plants shall be destroyed, or, if any opium have been extracted from them, it shall be seized and confiscated.

If the opium shall have been extracted and shall not be seized, the offender

shall be liable to a further fine not exceeding the rate of thirty-two rupees per bíghá of land illegally cultivated.

Duty of land-holders and others to give information of illegal cultivation.

22. All proprietors, farmers, tahsíldárs, gumáshtas, and other managers of land, shall give immediate information to the Police or ábkárí dároghas, or opium gumáshtas, or to the Magistrates, Collectors or officers in charge of the ábkárí mahál, or to the Agents, their deputies or sub-deputies, of all poppy which may be illegally cultivated within the estates or farms held or managed by them; and every proprietor, farmer, tahsíldár, gumáshta, or other manager of land, who shall knowingly neglect to give such information, shall be liable to the penalties for illegal cultivation prescribed in the last preceding section.

Duty of Police and other officers to give information of illegal cultivation.

23. All Police and ábkárí dároghas, and opium gumáshtas, and all Native officers of Government of whatever description, and all chaukídárs, paiks and other village Police officers, shall give immediate information to the authority to which they are subordinate when it may come to their knowledge that any land has been illegally cultivated with poppy; and such authority shall transmit the information to the Sub-deputy Agent, or other officer superintending the cultivation of the poppy, if in a district where the poppy is cultivated on account of Government, or to the Collector or officer in charge of the ábkárí mahál, if in a district where the poppy is not so cultivated.

Every Police or ábkárí dárogha, opium gumáshta, Native officer, chaukídár or other Police officer as aforesaid, who shall neglect to give such information, or shall in any respect connive at the illicit cultivation of the poppy, shall be liable to a fine not exceeding one thousand rupees if the offender be an officer of the Opium Department, or, in any other case, to a fine not exceeding five hundred rupees.

Police or ábkárí dárogha how to proceed in case of illegal cultivation.

24. Whenever a Police or ábkárí dárogha, or opium gumáshta, shall receive intelligence of any land within his jurisdiction having been illegally cultivated with poppy, he shall immediately proceed to the spot, and if the information be correct, shall attach the crop so illegally cultivated, and report the same without delay to the Authority to which he may be subordinate.

He shall at the same time take security from the cultivator of the said land for his appearance before the Magistrate; and in the event of such cultivator not giving the required security, he shall send him in custody to the Magistrate.

Landholders, &c., may attach in cases of illegal cultivation.

25. Proprietors, farmers, tahsíldárs, gumáshtas and other managers of land shall be at liberty to attach any poppy grown in opposition to the provisions of this Act in any estate or farm held or managed by them, and shall immediately report such attachment to the nearest Police or ábkárí dárogha or opium gumáshta, who shall thereupon proceed in conformity with the rules contained in the last preceding section.

26. Except as otherwise herein provided, all fines, penalties and confiscations prescribed by this Act shall be adjudged by the Magistrate on the information of the Deputy Agent or Sub-deputy Agent in districts in which the poppy is cultivated on account of Government, and in other districts on the information of the Collector or officer in charge of the ábkárí mahál:

provided that no information of an offence against this Act shall be admitted unless it be preferred within the period of one year after the commission of the offence to which the information refers.

Adjudication of penalties.

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27. When any person is sentenced to pay any fine or penalty under this Act, such person, in default of payment of the same, may be imprisoned by order of the Magistrate for any time not exceeding six months, or until the fine is sooner paid.

Imprisonment in default of payment of fine.

28. Whenever any person shall be convicted of an offence against this Act after having been previously convicted of a like offence, he shall be liable, in addition to the penalty attached to such offence, to imprisonment for a period not exceeding six months; and a like punishment of imprisonment not exceeding six months shall be incurred, in addition to the punishment which may be inflicted for a first offence, upon every subsequent conviction after the second.

Punishment for repetition of offences.

29. Every person who shall be imprisoned under the last preceding section, or on account of the non-payment of any fine or penalty prescribed by this Act, unless such person be an officer of Government or a village Police officer convicted of an offence under section 17, 20 or 23, shall be imprisoned in the civil jail.

Place of imprisonment under section 28.

30. One-half of all fines and penalties levied from persons convicted of offences under sections 19, 20 and 21 of this Act, together with a reward of one rupee eight annas for each ser of opium confiscated and declared by the Civil Surgeon to be fit for use, shall, upon adjudication of the case, be awarded to the officer or officers who apprehended the offender, and the other half of such fines and forfeitures, together with a reward of one rupee eight annas for each ser of opium confiscated as aforesaid, shall be given to the informer.

If in any case the fine or penalty is not realized, the Board of Revenue may grant such reasonable reward, not exceeding the sum of two hundred rupees, as may seem to them fit.

Disposal of fines and forfeitures.

31. The Governor General of India in Council may authorize, by an order of Government, the cultivation of the poppy and the manufacture of opium in any district or districts without license from a Sub-deputy Opium Agent or other officer of Government; and when such order has been published, all the provisions of this Act shall cease to have effect in such district or districts:

Provided always that the Government may prescribe rules for the delivery of the opium so produced to officers of Government appointed to receive it; and

Governor General may allow free cultivation of poppy and manufacture of opium in any district. Power to prescribe rules for delivery to

Government officers.

Penalty for contravention.

when such rules have been passed, any cultivator or other person engaged in the cultivation of the poppy and manufacture of opium who shall dispose of any opium otherwise than is allowed by such rules, and any person who shall purchase or receive any such opium in contravention of the said rules, shall be subject to the penalties prescribed in section 19 of this Act; and such penalties may be adjudged by a Magistrate on the information of any officer of Government or of any other person.

ACT No. XL of 1858.

Received the Governor General's assent on the 11*th of December* 1858.

An Act for making better provision for the care of the persons and property of minors in Oudh.

Preamble.

WHEREAS it is expedient to make better provision for the care of the persons and property of minors not brought under the superintendence of the Court of Wards; It is enacted as follows:—

1. [*Repealed by Act No. XIV of* 1870.]

Care of persons and charge of property of minors not under Court of Wards.

2. Except in the case of proprietors of mahâls assessed to revenue or held revenue-free who have been or shall be taken under the protection of the Court of Wards, the care of the persons of all minors (not being European British subjects) and the charge of their property shall be subject to the jurisdiction of the Civil Court.

Who may apply for certificate of administration.

3. Every person who shall claim a right to have charge of property in trust for a minor under a will or deed, or by reason of nearness of kin, or otherwise, may apply to the Civil Court for a certificate of administration;

No person to institute or defend suit without certificate.

and no person shall be entitled to institute or defend any suit connected with the estate of which he claims the charge until he shall have obtained such certificate:

Power to allow relative of minor to act.

Provided that, when the property is of small value, or for any other sufficient reason, any Court having jurisdiction may allow any relative of a minor to institute or defend a suit on his behalf, although a certificate of administration has not been granted to such relative.

Who may apply to Court to appoint person to take charge of minor's property, &c.

4. Any relative or friend of a minor in respect of whose property such certificate has not been granted, or, if the property consist in whole or in part of land or any interest in land, the Collector of the district, may apply to the Civil Court to appoint a fit person to take charge of the property and person of such minor.

Application where property in more than one district.

5. If the property be situate in more than one district, any such application as aforesaid shall be made to the Civil Court of the district in which the minor has his residence.

6. When application shall have been made to the Civil Court, either by a person claiming a right to have charge of the property of a minor, or by any relative or friend of a minor, or by the Collector, the Court shall issue notice of the application and fix a day for hearing the same:

Procedure of Court on application.

On the day so fixed, or as soon after as may be convenient, the Court shall enquire summarily into the circumstances and pass orders in the case:

Provided always that it shall be competent to the Civil Court to direct any Court subordinate to it to make such enquiry and report the result.

Reference of enquiry to subordinate Court.

7. If it shall appear that any person claiming a right to have charge of the property of a minor is entitled to such right by virtue of a will or deed, and is willing to undertake the trust, the Court shall grant a certificate of administration to such person.

Certificate of administration to whom to be granted.

If there is no person so entitled, or if such person is unwilling to undertake the trust, and there is any near relative of the minor who is willing and fit to be entrusted with the charge of his property, the Court may grant a certificate to such relative.

The Court may also, if it think fit (unless a guardian have been appointed by the father), appoint such person as aforesaid, or such relative or any other relative or friend of the minor, to be guardian of the person of the minor.

Court may appoint guardian.

8. The Court may call upon the Collector or Magistrate for a report on the character and qualification of any relative or friend of the minor who may be desirous or willing to be entrusted with the charge of his property or person.

Court may call for report as to relative or friend.

9. If no title to a certificate be established to the satisfaction of the Court by a person claiming under a will or deed, and if there be no near relative willing and fit to be entrusted with the charge of the property of the minor, and the Court shall think it to be necessary for the interest of the minor that provision should be made by the Court for the charge of his property and person, the Court may proceed to make such provision in the manner hereinafter provided.

Proceeding if no title to certificate be established, and if there be no relative fit to be entrusted with property.

10. If the estate of the minor consist of moveable property, or of houses, gardens or the like, the Court may grant a certificate to the Public Curator appointed under section 19, Act XIX of 1841 (*for the protection of moveable and immoveable property against wrongful possession in certain cases*), or, if there be no Public Curator, to any fit person whom the Court may appoint for the purpose.

When Court may grant certificate to Public Curator or other person.

11. Whenever the Court shall grant a certificate of administration to the estate of a minor to the Public Curator or other person as aforesaid, it shall at the same time appoint a guardian to take charge of the person and maintenance of the minor.

Appointment of guardian.

The person to whom a certificate of administration has been granted, unless he be the Public Curator, may be appointed guardian.

Guardian's allowance.

If the person appointed to be guardian be unwilling to discharge the trust gratuitously, the Court may assign him such allowance, to be paid out of the estate of the minor, as under the circumstances of the case it may think suitable.

Minor's allowance.

The Court may also fix such allowance as it may think proper for the maintenance of the minor; and such allowance and the allowance of the guardian (if any) shall be paid to the guardian by the Public Curator or other person as aforesaid.

When Court may direct Collector to take charge of estate. Appointment of manager and guardian thereupon.

12. If the estate of the minor consist, in whole or in part, of land or any interest in land, the Court may direct the Collector to take charge of the estate, and thereupon the Collector shall appoint a manager of the property of the minor and a guardian of his person, in the same manner and subject to the same rules in respect of such appointments and of the duties to be performed by the manager and guardian respectively, so far as the same may be applicable, as if the property and person of the minor were subject to the jurisdiction of the Court of Wards.

Costs of enquiries.

13. In all enquiries held by the Civil Court under this Act, the Court may make such order as to the payment of costs by the person on whose application the enquiry was made, or out of the estate of the minor or otherwise, as it may think proper.

When Civil Court may direct Collector to retain charge of shares and persons of certain minors.

14. Whenever one or more of the proprietors of an estate, which has come under the jurisdiction of the Court of Wards on account of the disqualification of all the proprietors, ceases to be disqualified, and the estate, in consequence, ceases to be subject to the jurisdiction of the Court of Wards, notwithstanding the continued disqualification of one or more of the co-proprietors, the Collector of the district in which the estate is situate may represent the fact to the Civil Court; and the Court, unless it see sufficient reason to the contrary, shall direct the Collector to retain charge of the persons, and of the shares of the property, of the still disqualified proprietors, during the continuance of their disqualification or until such time as it shall be otherwise ordered by the Court.

The Collector shall in such case appoint a guardian for the care of the persons, and a manager for the charge of the property, of the disqualified proprietors, in the manner prescribed in section 12.

Provision for case of estates situated in more than one district.

If the property be situate in more than one district, the representation shall be made by the Collector who had the general management of the property under the Court of Wards, to the Civil Court of his own district, and the orders of the Court of that district shall have effect also in other districts in which portions of the property may be situate.

15. The proceedings of the Collector in the charge of estates under this Act shall be subject to the control of the superior Revenue Authorities. Control of proceedings of Collector.

16. The Public Curator and every other administrator to whom a certificate shall have been granted under section 10 shall, within six months from the date of the certificate, deliver in Court an inventory of any immoveable property belonging to the minor, and of all such sums of money, goods, effects and things as he shall have received on account of the estate, together with a statement of all debts due by or to the same. Public Curator, &c., to furnish inventory

And the Public Curator and every such other administrator shall furnish annually, within three months from the close of the year of the era current in the district, an account of the property in his charge, exhibiting the amounts received and disbursed on account of the estate, and the balance in hand. and annual accounts.

If any relative or friend of a minor, or any public officer, by petition to the Court, shall impugn the accuracy of the said inventory and statement or of any annual account, the Court may summon the curator or administrator and enquire summarily into the matter, and make such order thereon as it shall think proper, or the Court at its discretion may refer such petition to any subordinate Court. Proceeding if accuracy of inventory or account be impugned.

17. All sums received by the Public Curator or such other administrator on account of any estate, in excess of what may be required for the current expenses of the minor or of the estate, shall be paid into the public treasury on account of the estate, and may be invested from time to time in the public securities. Payment of surplus into treasury. Investment.

18. Every person to whom a certificate shall have been granted under the provisions of this Act, may exercise the same powers in the management of the estate as might have been exercised by the proprietor if not a minor, and may collect and pay all just claims, debts and liabilities due to or by the estate of the minor. Powers of person to whom certificate granted, in management of minor's estate.

But no such person shall have power to sell or mortgage any immoveable property, or to grant a lease thereof for any period exceeding five years, without an order of the Civil Court previously obtained.

19. It shall be lawful for any relative or friend of a minor, at any time during the continuance of the minority, to sue for an account from any manager appointed under this Act, or from any person to whom a certificate shall have been granted under the provisions of this Act, or from any such manager or person after his removal from office or trust, or from his personal representative in case of his death, in respect of any estate then or formerly under his care or management, or of any sums of money or other property received by him on account of such estate. Relative or friend may sue for account.

Continuance of suit after disqualification ceases.

20. If the disqualification of a person, for whose benefit a suit shall have been instituted under this Act, cease before the final decision thereof, it shall be lawful for such person to continue the prosecution of the suit on his own behalf.

Revocation of certificate.

21. The Civil Court for any sufficient cause may recall any certificate granted under this Act, and may direct the Collector to take charge of the estate, or may grant a certificate to the Public Curator or any other person as the case may be; and may compel the person whose certificate has been recalled to make over the property in his hands to his successor, and to account to such successor for all monies received and disbursed by him.

Removal of guardian.

The Court may also for any sufficient cause remove any guardian appointed by the Court.

Penalty for neglect or refusal to deliver accounts or property.

22. The Civil Court may impose a fine not exceeding five hundred rupees on any person who may wilfully neglect or refuse to deliver his accounts, or any property in his hands, within the prescribed time, or a time fixed by the Court; and may realize such fine by attachment and sale of his property under the rules in force for the execution of decrees of Court; and may also commit the recusant to close custody until he shall consent to deliver such accounts or property.

Civil Court may permit resignation of trust, &c.

23. The Civil Court may permit any person to whom a certificate shall have been granted under this Act, not being the Public Curator, and any guardian appointed by the Court, to resign his trust; and may give him a discharge therefrom on his accounting to his successor, duly appointed, for all monies received and disbursed by him, and making over the property in his hands.

Remuneration of Public Curator, &c.

24. The Public Curator and every other administrator to whom a certificate shall have been granted under section 10, shall be entitled to receive such commission, not exceeding five per centum on the sums received and disbursed by him, or such other allowance, to be paid out of the minor's estate, as the Civil Court shall think fit.

Guardians of minors to provide for their education.

25. Every guardian appointed by the Civil Court, or by the Collector under this Act, who shall have charge of any male minor, shall be bound to provide for his education in a suitable manner.

Act XXVI of 1854 applied.

The general superintendence and control of the education of all such minors shall be vested in the Civil Court or in the Collector, as the case may be; and the provisions of Act XXVI of 1854 (*for making better provision for the education of male Minors subject to the superintendence of the Court of Wards*) shall, so far as is consistent with the provisions herein contained, be applicable to the Civil Court, or to the Collector, as the case may be, in respect to such minors, and to every such guardian.

26. For the purposes of this Act, every person shall be held to be a minor who has not attained the age of eighteen years. **Persons under 18 years held to be minors.**

27. Nothing in this Act shall authorize the appointment of a guardian of the person of a female whose husband is not a minor, or the appointment of a guardian of the person of any minor whose father is living and is not a minor; and nothing in this Act shall authorize the appointment of any person other than a female as the guardian of the person of a female. **Act not to authorize appointment of guardians of certain married women and other persons.**

If a guardian of the person of a minor be appointed during the minority of the father or husband of the minor, the guardianship shall cease as soon as the father or husband (as the case may be) shall attain the age of majority. **Guardianship in certain cases when to cease.**

28. All orders passed by the Civil Court or by any subordinate Court under this Act, shall be open to appeal under the rules in force for appeals, in miscellaneous cases, from the orders of such Court and the subordinate Courts. **Appeals.**

29. The expression "Civil Court" as used in this Act shall be held to mean the principal Court of original jurisdiction in the district, and shall not include the Supreme Court; and nothing contained in this Act shall be held to affect the powers of the Supreme Court over the person or property of any minor subject to its jurisdiction. **Construction of "Civil Court." Powers of Supreme Court not affected.**

Unless the contrary appears from the context, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number; and words importing the masculine gender shall include females. **Number. Gender.**

ACT No. XXVI OF 1866.

Received the Governor General's assent on the 12th of October 1866.

An Act to legalize the rules made by the Chief Commissioner of Oudh for the better determination of certain claims of subordinate proprietors in that province.

WHEREAS rules have been made by the Chief Commissioner of Oudh for the better determination of certain claims by persons possessed of subordinate rights of property in the territories subject to his administration; and whereas it is expedient that such rules should have the force of law: It is hereby enacted as follows:— **Preamble.**

1. The rules for determining the conditions under which persons possessed of subordinate rights of property in taluqas in the territories subject to the administration of the Chief Commissioner of Oudh shall be entitled to obtain a sub-settlement of lands, villages or sub-divisions thereof, which they held under taluqdárs on or before the thirteenth day of February 1856, and for **Rules as to sub-settlements contained in schedule to have force of law.**

determining the amounts payable to the taluqdár by such subordinate proprietors, which rules were made by the said Chief Commissioner, sanctioned by the Governor General of India in Council, and published in the *Gazette of India* for September 1st, 1866, and which are re-published in the schedule to this Act, are hereby declared to have the force of law.

2. [*Repealed by Act No. XIV of* 1870.]

Short title. 3. This Act may be called "The Oudh Sub-Settlement Act, 1866."

SCHEDULE.

Rules regarding Sub-settlements and other subordinate Rights of Property in Oudh.

1. The extension of the term of limitation for the hearing of claims to under-proprietary rights in land, makes of itself no alteration in the principles hitherto observed in the recognition of a right to sub-settlement.

2. When no rights are proved to have been exercised or enjoyed by an under-proprietor during the period of limitation, beyond the possession of certain lands as *sír* or *nankar*, no sub-settlement can be made; but the claimant will be entitled, in accordance with the rules contained in the circular orders which have hitherto been in force in Oudh upon this subject, to the recognition of a proprietary right in such lands. To entitle a claimant to obtain a sub-settlement, he must show that he possesses an under-proprietary right in the lands of which the sub-settlement is claimed, and that such right has been kept alive, over the whole area claimed, within the period of limitation. He must also show that he, either by himself or by some other person or persons from whom he has inherited, has, by virtue of his under-proprietary right, and not merely through privilege granted on account of service, or by favour of the taluqdár, held such lands under contract (*pakka*), with some degree of continuousness, since the village came into the taluqa.

3. The words "some degree of continuousness" will be interpreted as follows:—

If the village was included in the taluqa before the thirteenth February 1836, the lease must have been held for not less than twelve years between that date and the annexation of the province. If the village was included in the taluqa after the thirteenth February 1836, but before the thirteenth February 1841, the lease must have been held for not less than one year more than half the period between the time in which the village was so included and the annexation of the province. Further, the lease must, in all cases, have been held for not less than seven years during the term of limitation, unless the village

was included for the first time in the taluqa after the thirteenth February 1844, in which case the lease must have been held for not less than one year more than half of the period between the time in which the village was so included and the annexation of the province. Provided that, if, for any reason, the taluqdár was, for any period, dispossessed of the village, and the under-proprietor was dispossessed from the lease during the same period, the term of such dispossession shall not be reckoned against the under-proprietor. Provided also, that nothing in this rule will apply to any village which was included for the first time in the taluqa after the thirteenth February 1844, and in which the under-proprietor has held no lease for any period under the taluqdár.

4. If an under-proprietor, who is entitled to a sub-settlement, can show by documentary evidence that he had entered into an agreement with the taluqdár that he should hold, in perpetuity, the lease of the lands to the sub-settlement of which he is entitled, at a uniform (*istimrárí*) rate of payment, and that such agreement has been acted on within the period of limitation, he will not be liable to payment at an increased rate during the currency of the present or revised settlement. If, in consequence of any future re-adjustment of the Government demand, the former proportion between the respective shares of the profits derived from the land by the under-proprietor and the taluqdár should be altered, the amount payable by the under-proprietor to the taluqdár will be liable to re-adjustment, so that the proportion between their respective shares of the profits may remain unaltered.

5. If an under-proprietor, entitled to sub-settlement, can show by documentary evidence that he had entered into an agreement with the taluqdár that he should hold the lease of the lands to the sub-settlement of which he is entitled, on payment of the Government demand imposed before the annexation of the province on such lands, with the addition only of certain dues to the taluqdár, or other charges, and such agreement has been acted upon within the period of limitation, such under-proprietor will in future be liable only for the payment to the taluqdár of the Government demand for the time being, with the addition of ten per cent. in lieu of taluqdárí dues and other charges.

6. If an under-proprietor, entitled to sub-settlement, has held the lease of the lands to the sub-settlement of which he is entitled, under an agreement that he shall pay to the taluqdár a certain share or proportion of the profits or produce of such lands, and such agreement has been acted upon within the term of limitation, the under-proprietor will in future continue to be liable for the payment to the taluqdár of such share or proportion.

7. In all cases in which an under-proprietor is entitled to a sub-settlement other than those described in rules 4 to 6, the amount payable by the under-proprietor to the taluqdár will be determined according to the following principles :—

1*st*.—The payments made by the under-proprietor to the taluqdár before annexation, will form the standard by which the present payments are to be regulated;

2*nd*.—In no case can the amount payable by the under-proprietor to the taluqdár, during the currency of the settlement, exceed the gross rental of the village, less ten per cent. in *sír* or *nankar* land ;

3*rd*.—In no case can the amount payable during the currency of the settlement by the under-proprietor to the taluqdár, be less than the amount of the revised Government demand, with the addition of ten per cent.;

4*th*.—If the gross rental of the village before annexation and at the present time be approximately the same, the under-proprietor will pay to the taluqdár the same amount which he paid before annexation ;

5*th*.—If the present gross rental of the village exceed or fall short of the former gross rental, the payment of the under-proprietor to the taluqdár will be adjusted according to the following rule, namely, as the former gross rental is to the former payment of the under-proprietor, so is the present gross rental to the present payment of the under-proprietor ;

6*th*.—In determining the amount payable by the under-proprietor to the taluqdár under the two last preceding rules, the former gross rental and the former payment of the under-proprietor will be held to be the average amount of the gross rental, and the average amount of the former payments of the under-proprietor for the twelve years preceding annexation, or for such portion of that time as the under-proprietor held a lease of the village from the taluqdár, or for such portion of that time as the necessary information may be obtained.

8. In any case in which the clear share of the profit to which the under-proprietor is entitled under the rules contained in the last preceding paragraph does not exceed twelve per cent. of the gross rental, no sub-settlement shall be made. In this case, the under-proprietor will retain all *sír* and *nankar* land to which his right is established. If the profits derived from such land be less than one-tenth of the whole rental of the land to the sub-settlement of which the right was established, the taluqdár shall increase the amount of such land so that the total profit to the under-proprietor shall not fall below one-tenth of the gross rental. The under-proprietor will possess, in the whole of such land, a transferable and heritable right of property.

9. In any case in which an under-proprietor is entitled to a sub-settlement under the preceding rules, and in which the share of the gross rental which such under-proprietor is entitled to receive exceeds twelve per cent., but falls short of twenty-five per cent., such share will be increased so that it shall not be less than twenty-five per cent. of the gross rental. The cost of such increase will be borne half by the Government and half by the talqudár. In this case, the cesses on account of roads, schools, &c., amounting to two and a half per cent. on the Government demand, will be payable by the taluqdár, while the village-expenses, including the allowances to the patwárí and chaukídár, will be payable by the under-proprietor.

10. When a former proprietor, who is not entitled to a sub-settlement, has retained within the period of limitation, either by himself or by some other person or persons from whom he has inherited, possession of land which by virtue of his proprietary right he held as *sír* or *nankar* when he was in proprietary possession, he will be deemed in respect of such land to be an under-proprietor, and will possess a heritable and transferable right of property therein, subject to the payment of such amount as may be due by him to the superior proprietor.

11. If, in any case, the founder of a púrwa or hamlet, who is unable to establish a right to sub-settlement, can show that, in consideration of having founded such púrwa or hamlet, he has held therein, within the period of limitation, possession of *sír* or *nankar* land, he will be recognized as an under-proprietor in such land, subject to the payment of such amount as may be due by him to the taluqdár. The amount of such payment will be determined according to the rules for determining the amount of the payments due by other under-proprietors on their *sír* or *nankar* lands.

12. Claims to proprietary and under-proprietary rights in jágírs will be treated according to the same rules which are applicable to similar claims in taluqas.

13. Cases in which claims to under-proprietary rights have been disposed of otherwise than in accordance with these rules will be open to revision, but this rule will not apply to cases disposed of by arbitration or by agreement of the parties.

SIMLA,
The 20th August 1866.

J. STRACHEY,
Chief Commissioner of Oudh.

ACT No. III OF 1867.

Received the Governor General's assent on the 25th of January 1867.

An Act to provide for the punishment of public gambling and the keeping of common gaming-houses in the North-Western Provinces of the Presidency of Fort William, and in the Panjáb, Oudh, the Central Provinces and British Burma.[a]

Preamble.

WHEREAS it is expedient to make provision for the punishment of public gambling and the keeping of common gaming-houses in the territories respectively subject to the Governments of the Lieutenant-Governor of the North-Western Provinces of the Presidency of Fort William, of the Lieutenant Governor of the Panjáb, and to the Administrations of the Chief Commissioner of Oudh, of the Chief Commissioner of the Central Provinces, and of the Chief Commissioner of British Burma; It is hereby enacted as follows:—

Interpretation-clause. "Lieutenant-Governor."

1. In this Act—

"Lieutenant Governor" means the Lieutenant Governor of the said North-Western Provinces or the Panjáb, as the case may be:

"Chief Commissioner."

"Chief Commissioner" means the Chief Commissioner of Oudh, the Central Provinces, or British Burma, as the case may be:

"Common gaming-house."

"Common gaming-house" means any house, walled enclosure, room or place in which cards, dice, tables or other instruments of gaming are kept or used for the profit or gain of the person owning, occupying, using or keeping such house, enclosure, room or place, whether by way of charge for the use of the instruments of gaming, or of the house, enclosure, room or place, or otherwise howsoever:

Number.

Words in the singular include the plural and *vice versâ*, and

Gender.

Words denoting the masculine gender include females.

Power to extend Act.

2. Sections 13, 17 and 18 of this Act shall extend to the whole of the said territories; and it shall be competent to the Lieutenant-Governor or the Chief Commissioner, as the case may be, whenever he may think fit, to extend, by a notification to be published in three successive numbers of the official Gazette, all or any of the remaining sections of this Act to any city, town, suburb, railway station-house and place being not more than three miles distant from any part of such station-house within the territories subject to his Government or administration, and in such notification to define, for the purposes of this Act, the limits of such city, town, suburb or station-house, and from time to time to alter the limits so defined.

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[a] Section 18, which was repealed by Act No. XVI of 1874, is omitted.

From the date of any such extension, so much of any rule having the force of law which shall be in operation in the territories to which such extension shall have been made, as shall be inconsistent with or repugnant to any section so extended, shall cease to have effect in such territories.

Penalty for owning or keeping, or having charge of, gaming-house.

3. Whoever, being the owner or occupier, or having the use, of any house, walled enclosure, room or place, situate within the limits to which this Act applies, opens, keeps or uses the same as a common gaming-house; and

whoever, being the owner or occupier of any such house, walled enclosure, room or place as aforesaid, knowingly or wilfully permits the same to be opened, occupied, used or kept by any other person as a common gaming-house; and

whoever has the care or management of, or in any manner assists in conducting, the business of any house, walled enclosure, room or place as aforesaid, opened, occupied, used or kept for the purpose aforesaid; and

whoever advances or furnishes money for the purpose of gaming with persons frequenting such house, walled enclosure, room or place,

shall be liable to a fine not exceeding two hundred rupees, or to imprisonment of either description, as defined in the Indian Penal Code, for any term, not exceeding three months.

Penalty for being found in gaming-house.

4. Whoever is found in any such house, walled enclosure, room or place, playing or gaming with cards, dice, counters, money or other instruments of gaming, or is found there present for the purpose of gaming, whether playing for any money, wager, stake or otherwise, shall be liable to a fine not exceeding one hundred rupees, or to imprisonment of either description, as defined in the Indian Penal Code, for any term not exceeding one month;

and any person found in any common gaming-house during any gaming or playing therein shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

Power to enter and authorize Police to enter and search.

5. If the Magistrate of a district, or other officer invested with the full powers of a Magistrate, or the District Superintendent of Police, upon credible information, and after such enquiry as he may think necessary, has reason to believe that any house, walled enclosure, room or place, is used as a common gaming-house, he may either himself enter, or by his warrant authorize any officer of Police, not below such rank as the Lieutenant-Governor or Chief Commissioner shall appoint in this behalf, to enter, with such assistance as may be found necessary, by night or by day, and by force if necessary, any such house, walled enclosure, room or place, and may either himself take into custody, or authorize such officer to take into custody, all persons whom he or such officer finds therein, whether or not then actually gaming;

and may seize or authorize such officer to seize all instruments of gaming, and all monies and securities for money, and articles of value, reasonably sus-

pected to have been used or intended to be used for the purpose of gaming, which are found therein;

and may search or authorize such officer to search all parts of the house, walled enclosure, room or place, which he or such officer shall have so entered, when he or such officer has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he or such officer so takes into custody;

and may seize or authorize such officer to seize and take possession of all instruments of gaming found upon such search.

Finding cards, &c., in suspected houses, to be evidence that such houses are common gaming-houses.

6. When any cards, dice, gaming-tables, cloths, boards or other instruments of gaming are found in any house, walled enclosure, room or place, entered or searched under the provisions of the last preceding section, or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, walled enclosure, room or place, is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Magistrate or Police officer, or any of his assistants.

Penalty on persons arrested for giving false names and addresses.

7. If any person found in any common gaming-house entered by any Magistrate or officer of Police under the provisions of this Act, upon being arrested by any such officer or upon being brought before any Magistrate, on being required by such officer or Magistrate to give his name and address, shall refuse or neglect to give the same, or shall give any false name or address, he may upon conviction before the same or any other Magistrate be adjudged to pay any penalty not exceeding five hundred rupees, together with such costs as to such Magistrate shall appear reasonable, and on the non-payment of such penalty and costs, or in the first instance, if to such Magistrate it shall seem fit, may be imprisoned for any period not exceeding one month.

On conviction for keeping gaming-house, instruments of gaming to be destroyed.

8. On conviction of any person for keeping or using any such common gaming-house, or being present therein for the purpose of gaming, the convicting Magistrate may order all the instruments of gaming found therein to be destroyed, and may also order all or any of the securities for money and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof with all monies seized therein to be forfeited; or, in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled.

Proof of playing for stakes unnecessary.

9. It shall not be necessary, in order to convict any person of keeping a common gaming-house, or of being concerned in the management of any common gaming-house, to prove that any person found playing at any game was playing for any money, wager or stake.

10. It shall be lawful for the Magistrate before whom any persons shall be brought, who have been found in any house, walled enclosure, room or place entered under the provisions of this Act, to require any such persons to be examined on oath or solemn affirmation, and give evidence touching any unlawful gaming in such house, walled enclosure, room or place, or touching any act done for the purpose of preventing, obstructing or delaying the entry into such house, walled enclosure, room or place or any part thereof, of any Magistrate or officer authorized as aforesaid.

Magistrate may require person apprehended to be sworn and give evidence.

No person so required to be examined as a witness shall be excused from being so examined when brought before such Magistrate as aforesaid, or from being so examined at any subsequent time by or before the same or any other Magistrate, or by or before any Court on any proceeding or trial in any ways relating to such unlawful gaming or any such acts as aforesaid, or from answering any question put to him touching the matters aforesaid, on the ground that his evidence will tend to criminate himself.

Any such person so required to be examined as a witness, who refuses to make oath or take affirmation accordingly, or to answer any such question as aforesaid, shall be subject to be dealt with in all respects as any person committing the offence described in section 178 or section 179 (as the case may be) of the Indian Penal Code.

Penalty for refusing to swear or affirm.

11. Any person who shall have been concerned in gaming contrary to this Act, and who shall be examined as a witness before a Magistrate on the trial of any person for a breach of any of the provisions of this Act relating to gaming, and who, upon such examination, shall in the opinion of the Magistrate make true and faithful discovery, to the best of his knowledge, of all things as to which he shall be so examined, shall thereupon receive from the said Magistrate a certificate in writing to that effect, and shall be freed from all prosecutions under this Act for anything done before that time in respect of such gaming.

Witnesses indemnified.

12. Nothing in the foregoing provisions of this Act contained, shall be held to apply to any game of mere skill wherever played.

Act not to apply to certain games.

13. A Police officer may apprehend without warrant any person found playing for money or other valuable thing with cards, dice, counters or other instruments of gaming, used in playing any game not being a game of mere skill, in any public street, place or thoroughfare situated within the limits aforesaid, or any person setting any birds or animals to fight in any public street, place or thoroughfare situated within the limits aforesaid, or any person there present aiding and abetting such public fighting of birds and animals.

Gaming and setting birds and animals to fight in public streets.

Such person when apprehended shall be brought without delay before a Magistrate, and shall be liable to a fine not exceeding fifty rupees, or to im-

prisonment, either simple or rigorous, for any term not exceeding one calendar month;

Destruction of instruments of gaming.

and such Police officer may seize all instruments of gaming found in such public place or on the person of those whom he shall so arrest, and the Magistrate may on conviction of the offender order such instruments to be forthwith destroyed.

Offences by whom triable.

14. Offences punishable under this Act shall be triable by any Magistrate having jurisdiction in the place where the offence is committed. But such Magistrate shall be restrained within the limits of his jurisdiction under the Code of Criminal Procedure, as to the amount of fine or imprisonment he may inflict.

Penalty for repetition of offence.

15. Whoever, having been convicted of an offence punishable under section 3 or section 4 of this Act, shall again be guilty of any offence punishable under either of such sections, shall be subject for every such subsequent offence to double the amount of punishment to which he would have been liable for the first commission of an offence of the same description:

Limit to punishment.

Provided that he shall not be liable in any case to a fine exceeding six hundred rupees, or to imprisonment for a term exceeding one year.

Portion of fine may be paid to informer.

16. The Magistrate trying the case may direct any portion of any fine which shall be levied under sections 3 and 4 of this Act, or any part of the monies or proceeds of articles seized and ordered to be forfeited under this Act, to be paid to an informer.

Recovery and application of fines.

17. All fines imposed under this Act may be recovered in the manner prescribed by section 307 of the Code of Criminal Procedure,[a] and such fines shall (subject to the provisions contained in the last preceding section) be applied as the Lieutenant-Governor or Chief Commissioner, as the case may be, shall from time to time direct.

ACT No. XXXII OF 1867.

Received the Governor General's assent on the 18*th of July* 1867.

An Act to enable the Governor General of India in Council to delegate to a Chief Commissioner any power conferred on a Local Government by an Act of the Governor General of India in Council.

Preamble.

WHEREAS it is expedient to enable the Governor General of India in Council to delegate to any of the Chief Commissioners of Oudh, the Central

[a] See Act No. X of 1872, Schedule V.

Provinces and British Burma, any power conferred on the Governor General in Council as the Local Government of the territories under the administration of such Commissioner by any Act of the said Governor General in Council; It is hereby enacted as follows :—

1. It shall be lawful for the Governor General of India in Council, by a notification published in the *Gazette of India*,[a] to delegate to the Chief Commissioner of Oudh, the Central Provinces or British Burma, as the case may be, all or any of the powers heretofore or hereafter conferred by any Act of the Governor General of India in Council on the Governor General of India in Council as the Local Government of the territories under the administration of such Chief Commissioner; and all acts done by the Chief Commissioner, to whom any such power shall have been delegated as aforesaid, in exercise of the same power, shall be as valid as if they had been done by the said Governor General in Council.

Governor General in Council empowered to delegate to Chief Commissioners certain power.

2. This Act may be called "The Chief Commissioners' Powers Act."

Short title.

THE OUDH RENT ACT.

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[a] Notifications have been published under this section, delegating to the Chief Commissioner of Oudh powers under—

Act No. XXXI of 1860 (The Arms Act), s. 22, *Gazette of India*, 29th Nov. 1873, p. 972.
" " V of 1861 (Police), except s. 4, *ibid.*, 7th March 1868, p. 358, amended, *ibid.*, 12th June 1869, p. 18.
" " XXV of 1861 (Code of Criminal Procedure), secs. 23, 49, 51, 390, 394, 395, 396, 397 *ibid.*, 24th August 1867, p. 1223; sec. 38, *ibid.*, 4th July 1868, p. 1010.
" " XXII of 1864 (Cantonments), *ibid.*, 26th October 1867, p. 1457.
" " II of 1865 (Rural Police), *ibid.*, 11th January 1868, p. 44.
" " XX of 1865 (Pleaders), secs. 6 and 24, *ibid.*, 21st September 1867, p. 1338.

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ACT No. XIX OF 1868.

Received the Governor General's assent on the 22nd of July 1868.

An Act to consolidate and amend the law relating to rent in Oudh.

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to rent in Oudh and to other matters connected therewith; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title. Extent.

1. This Act may be cited as "The Oudh Rent Act," and shall extend only to Oudh.

2. [*Repealed by Act No. XIV of* 1870.]

3. In this Act, unless there be something repugnant in the subject or context— Interpretation-clause.

"Oudh" means the territories under the administration of the Chief Commissioner of Oudh at the time of the passing of this Act: "Oudh."

"Court" means any judicial officer presiding in a Court of Revenue for the disposal of matters under this Act: "Court."

"Suit" means a suit under this Act: "Suit."

"Assistant Commissioner" includes an Extra Assistant Commissioner: "Assistant Commissioner."

"Land" applies only to land assessed to the land-revenue, and includes land whereof the revenue has been assigned by Government: it also includes the ungathered produce of land, whether spontaneous or otherwise, and whether growing in earth or water: "Land."

"Revenue" means the money payable to the Government on account of land: "Revenue."

"Rent" means the money or the portion of the produce of land payable on account of the use or occupation of land, or on account of the use of water for irrigation: "Rent."

"Proprietor" does not include an under-proprietor. Where there are two private rights of property, one superior and the other subordinate, in the same land, "proprietor" means the holder of the superior right only: "Proprietor."

"Proprietary right" means a proprietor's right in land: "Proprietary right."

"Under-proprietor" means any person possessing a heritable and transferable right of property in land for which he is liable to pay rent: "Under-proprietor."

"Under-proprietary right" means an under-proprietor's right in land: "Under-proprietary right."

"Tenant" means any person, not being an under-proprietor, who is liable to pay rent: "Tenant."

"Landlord" means any person to whom an under-proprietor or tenant is liable to pay rent: "Landlord."

"Representative" means an heir or any other person taking by operation of law or by will a beneficial interest in the property of a deceased person. It includes the guardian of a minor and the legal curator of a lunatic or idiot: and "Representative."

"Lambardár" means any person who has executed an engagement for the payment of the revenue to Government, or for the payment to a landlord of the rent due from under-proprietors holding a sub-settlement. "Lambardár."

4. Nothing in sections 19, 20, 21, 22, 23, 24, 25 and 28 shall affect the Saving of

written agreements.

terms of any agreement in writing heretofore or hereafter entered into respecting the subject-matter of the said sections respectively.

Index not to have force of law.

Nothing in the index to this Act shall be deemed to have the force of law.

CHAPTER II.

Of certain Rights and Liabilities of Landlords, Under-proprietors and Tenants.

Right of Occupancy.

Tenants having right of occupancy.

5. Tenants who have lost all proprietary right, whether superior or subordinate, in the lands which they hold or cultivate, shall, so long as they pay the rent payable for the same according to the provisions of this Act, have a right of occupancy under the following rule:—

Rule.

Every such tenant, who, within thirty years next before the thirteenth day of February 1856, has been, either by himself, or by himself and some other person from whom he has inherited, in possession as proprietor in a village or estate, shall be deemed to possess a heritable but not a transferable right of occupancy in the land which he cultivated or held in such village or estate on the twenty-fourth day of August 1866: Provided that such land has not come into his occupation, or the occupation of the person from whom he has inherited, for the first time since the said thirteenth day of February 1856: Provided also, that no such tenant shall have a right of occupancy in any village or estate in which he or any co-sharer with him possesses any under-proprietary right.

Nothing contained in the former part of this section shall affect the terms of any agreement in writing hereafter entered into between a landlord and tenant.

Loss of right of occupancy.

6. If a tenant having a right of occupancy be ejected, in accordance with the provisions of section 41, from the land in which he possesses such right, he shall thereupon lose his right of occupancy in such land.

Tenants' Right to Leases.

Tenant's right to lease.

7. Every tenant is entitled to receive from his landlord a lease executed by him and containing the following particulars:—

The quantity of land; and, where the fields comprised in the lease have been numbered in a Government survey, the number of each field:

The term for which the lease is granted:

The amount of rent payable:

The instalments in which and the times at which the same is to be paid:

Any special conditions of the lease:

And, if the rent is payable in kind, the proportion of produce to be delivered, and the time, manner and place of delivery.

8. Tenants having a right of occupancy are entitled to receive leases at rates of rent determined in accordance with the provisions contained in sections 32, 33 and 34. Lease to which tenant having right of occupancy is entitled.

9. Tenants not having a right of occupancy are entitled to leases only on such terms as may be agreed on between them and the landlord. Lease to which tenant not having right of occupancy is entitled.

Landlords' Right to Counterparts.

10. Every landlord who grants a lease is entitled to receive from the tenant a counterpart executed by him. Landlord entitled to counterpart.

Cancelment of Leases.

11. When any landlord or any tenant not having a right of occupancy fails to perform or observe any of the stipulations contained in the lease, such lease shall be liable to be cancelled by a decree. Cancelment of lease.

If after such decree, the ejectment of the tenant is postponed in accordance with the provisions of section 38, he shall be liable, so long as he remains in occupation of the land comprised in the lease, to pay the rent reserved thereby.

Arrears of Revenue or Rent.

12. Any instalment of revenue or rent which is not paid on or before the day when the same becomes due, whether under a written agreement or according to law or local usage, shall be deemed to be, for the purposes of this Act, an arrear of revenue or rent, as the case may be: What to be deemed arrear of revenue or rent.

Provided that, unless the proprietor and under-proprietor shall have otherwise agreed in writing, the rent payable to the former by the latter shall be held to become due one month before the date fixed for the payment of the revenue on account of the village in which the land in respect of which such rent is payable is situate, and to be payable in the same number of instalments as the said revenue; and the amount of each instalment of such rent shall bear the same proportion to the whole of such rent payable for the year, as the amount of each instalment of such revenue bears to the whole of such revenue payable for the year.

Receipts.

13. Receipts for rent and acknowledgments of the tender of rent shall specify the year or years on account of which it has been paid or tendered; Receipts for rent.

and any refusal to make such specification shall be held to be a withholding of a receipt or acknowledgment.

If such receipt or acknowledgment is withheld from any under-proprietor or tenant without sufficient cause, he may recover compensation from the landlord, not exceeding the amount so paid or tendered.

Deposit of Revenue or Rent in Court without Suit.

Power to pay into Court, without suit brought, amount of revenue or rent due.

14. If any co-sharer, under-proprietor or tenant having a right of occupancy, or holding under an unexpired lease or under an agreement or decree shall, at the place where the revenue or rent of the land held or cultivated by him is usually payable, tender to the person authorized to receive the same, payment of the full amount of such revenue or rent due in respect of such land, and if such amount is not accepted and a receipt in full forthwith granted, it shall be lawful for the co-sharer, under-proprietor or tenant, without any suit having been instituted against him, to deposit such amount in Court to the credit of the person authorized to receive it.

Such deposit shall, so far as regards the co-sharer, under-proprietor or tenant, and all persons claiming through or under him, operate as a payment then made to the lambardár or landlord of the amount so deposited.

Procedure on making and withdrawing such payment.

15. The Court shall receive such deposit on the written application of the co-sharer, under-proprietor or tenant, or his recognized agent: and on such co-sharer, under-proprietor, tenant or agent, making a declaration in the form set forth in schedule A hereto annexed, or as near thereto as circumstances will admit, the Court shall give him a receipt for the deposit.

Such declaration shall be verified in the manner prescribed for the verification of plaints in the Code of Civil Procedure, and the provisions of section 24 of the said Code shall apply to the person making the verification.

Upon receiving the money so deposited, the Court shall issue to the person to whose credit it has been deposited a notice in the form set forth in schedule B hereto annexed.

Service of notice.

Such notice shall be served by the proper officer, without the payment of any fee, upon the person to whom it is addressed or upon his recognized agent.

In the absence of any such agent, it may be served by putting up a copy of the same at the Court-house, and another copy at the ordinary place of residence, within the jurisdiction of the Court, of such person, or if there be no such place, at the place where the revenue or rent is usually paid to the lambardár or landlord, as the case may be, for the land in respect of which the money has been deposited.

If the person on whom such notice is served or his recognized agent appears and applies that the money in deposit be paid to him, it shall immediately be paid accordingly.

16. Whenever a deposit has been made under the provisions of this Act, no suit shall be brought against the depositor or his representative on account of any revenue or rent which accrued due in respect of the land last hereinbefore mentioned prior to the date of the deposit, unless such suit is instituted within six months from the date of the service of the notice mentioned in section 15.

Limitation of suits for balance of revenue or rent.

17. If, at the time of passing the decision in any such suit, the Court is satisfied that the full amount of revenue or rent due at the time of the deposit was tendered to, and was not accepted by, the lambardár or landlord, or his recognized agent, as the case may be, or that a receipt or acknowledgment was withheld for such amount without sufficient cause, the Court may award to such depositor compensation from the lambardár or landlord, not exceeding the amount so paid or tendered.

Compensation for non-acceptance of revenue or rent.

If the Court be satisfied that the amount of the deposit was less than the amount of revenue or rent due, the Court shall pay the amount of the deposit to the lambardár or landlord, and shall make a decree for the balance due by the depositor.

Illegal Enforcement of Payment of Rent.

18. If payment of rent or of any sum in excess of the rent legally claimable is illegally enforced, and any under-proprietor or tenant institutes a suit to recover compensation for such enforcement, the Court may award to him compensation, not exceeding the sum of rupees two hundred, in addition to any amount for which it makes a decree in respect of such payment.

Compensation to under-proprietor or tenant for illegal enforcement of payment.

An award of compensation under the former part of this section shall not bar any prosecution to which the person enforcing such payment may be liable under any law for the time being in force.

Abatement of Rent.

19. No suit for an abatement of rent shall be brought by any under-proprietor or tenant, except on the ground that the area of the land has been diminished by diluvion, or on some ground specified in any lease, agreement or decree under which he holds :

Suits for abatement of rent by under-proprietor or tenant.

Provided that, if the under-proprietor hold a sub-settlement in a revenue-paying estate, no such abatement shall be allowed to the under-proprietor unless a remission of revenue has been allowed on the same ground and by competent authority in the same estate.

Remission of Rent.

20. Notwithstanding anything contained in sections 19, 35 and 36, the Court, in making a decree for an arrear of rent, may allow such remission from the rent payable by any under-proprietor or tenant as appears equitable,

When Court may allow remission from rent.

if the area of the land in his occupation has been diminished by diluvion or otherwise, or if the produce of such land has been diminished by drought or hail, or other calamity beyond his control, to such an extent that the full amount of rent payable by him cannot, in the opinion of the Court, be equitably decreed:

Provided that, if the under-proprietor hold a sub-settlement, or if the tenant hold a lease for a term of not less than five years or have a right of occupancy in a revenue-paying estate, no such remission shall be allowed to him unless a remission of revenue shall have been allowed on the same ground and by competent authority in the same estate.

Relinquishment of Land.

Relinquishment of land by tenant.

21. Every tenant shall continue liable for the rent of the land in his holding, unless on or before the fifteenth day of May in any year he gives notice to the landlord or his recognized agent of his desire to relinquish such land, and relinquishes it accordingly, or unless it has been let to any other person by such landlord or agent.

If the landlord or his recognized agent refuse to receive such notice, the tenant may apply to the tahsíldár or proper officer, and written notice of such desire shall thereupon be served on such landlord or agent, and the tenant shall pay the costs of service.

The notice shall, if practicable, be served personally on the landlord or agent. But if he cannot be found, service may be made by affixing the notice at his usual place of residence, or, if he does not reside in the district wherein the land is situate, at the *chaupál* or other conspicuous place in the village wherein the land is situate.

Compensation for Tenants' Improvements.

Tenants' right to compensation for improvements.

22. If any tenant, or the person from whom he has inherited, make any such improvements on the land in his occupation as are hereinafter mentioned, the rent payable by him or his representative shall not be enhanced, nor shall he or his representative be ejected from the same land unless and until he or his representative, as the case may be, has received compensation for the outlay, in money or labour, or both, expended in making such improvements by him, or the person from whom he has inherited, or whom he represents, within thirty years next before the date of such enhancement or ejectment.

"Improvements" defined.

23. The word "improvements," as used in section 22, means works by which the annual letting value of the land has been, and, at the time of demanding compensation, continues to be, increased, and comprises—

1*st*. The construction of works for the storage of water, for the supply

of water for agricultural purposes, for drainage and for protection against floods; the construction of wells; the reclaiming and clearing of waste-lands and jungles; and other works of a like nature;

2nd.—The renewal or reconstruction of any of the foregoing works, or such alterations therein or additions thereto as are not required for maintaining the same, and which increase durably their value.

24. Such compensation may, at the option of the landlord or his representative, be made— Compensation how made.

(1), by payment in money;

(2), by the grant of a beneficial lease of the land by the landlord or his representative to the tenant or his representative; or

(3), partly by payment in money and partly by the grant of such lease as aforesaid.

25. In case of difference as to the amount or value of the compensation tendered, either party may present an application to the Court, stating the matter in dispute and requesting a determination thereof. Provision for difference as to amount or value of compensation.

On receiving such application, the Court shall cause notice thereof to be served on the other party, and, after taking such evidence as the parties or either of them may adduce, and after such further enquiry (if any) as it may deem necessary, determine (as the case may be) the amount of the payment, or the terms of the lease, or both.

In determining such amount, the Court shall take into account any assistance given by the landlord, either directly in money, material or labour at the time of making such improvements, or indirectly by subsequently allowing the tenant to hold at a rate of rent more favourable than the rate at which he otherwise would have held.

The proceedings on any such application shall be deemed to be a suit for the purposes of chapter six (as to reference to arbitration) of the Code of Civil Procedure, and of section nine of Act No. XXIII of 1861 (*to amend Act VIII of* 1859).

26. If in any case a landlord tenders to a tenant a lease of the land in his occupation, for a term of not less than twenty years from the date of the tender, at the annual rent then paid by the tenant, or at such other annual rent as may be agreed upon, such tender, if accepted by the tenant, shall bar any claim by him or his representative in respect of improvements previously made on such land by the tenant or the person from whom he has inherited. Tender of lease for twenty years to bar right to compensation for improvements.

Survey and Measurement.

27. Every landlord, his agents and surveyors, may at all reasonable times enter upon any land comprised in his estate for the purpose of surveying and measuring the same. Landlord's right to enter and measure lands.

CHAPTER III.

Commutation and Payment of Rent in Kind.

Commutation of rents in kind.

28. In any district in which a settlement of revenue is in progress, it shall be in the discretion of any officer employed in making or revising such settlement, in any case in which the rent of a tenant having a right of occupancy is paid in kind, or by the estimated value of a portion of the crop, to commute, on the application either of the landlord or the tenant, such rent into a rent in money.

The amount of rent thus fixed shall be binding upon the parties concerned.

All decisions already passed by any such officer, commuting rents in kind or by valuation to rents in money, shall, subject to the same appeal as is given by this Act in respect of decisions passed in suits, be binding on the parties concerned.

Chief Commissioner may extend section 28, and declare officers to hear and decide cases thereunder.

29. The Chief Commissioner of Oudh may extend the provisions of section 28 to any district or portion of a district in which a settlement of revenue is not in progress;

and may declare what officers are empowered to hear and decide cases under this section;

and may, with the previous sanction of the Governor General of India in Council, make rules for the guidance of officers acting under this section and section 28, and from time to time, with the like sanction, alter and add to the rules so made:

Provided that such rules, alterations and additions are consistent with this Act.

Division or appraisement of produce taken for rent.

30. Wherever rent is taken by division of the produce in kind, or by estimate or appraisement of the standing crop, or other procedure of a similar nature, requiring the presence both of the tenant and landlord either personally or by a recognized agent, if either party neglect to be present at the proper period, or if a dispute arise between the parties regarding such division, estimate or appraisement, either party may present an application to the Court requesting that a proper officer be deputed to make the division, estimate or appraisement.

Procedure in case of dispute.

31. On receiving such application, the Court shall issue a written notice to the other party to attend on the date and at the place specified in the notice, and shall depute an officer before whom the division, estimate or appraisement shall be made.

The award of such officer in respect of such division, estimate or appraise-

ment shall be final, unless within one month from the date thereof either party institutes a suit to set it aside.

CHAPTER IV.

Enhancement and fixing Rates of Rent.

A.—Tenants with Right of Occupancy.

Enhancement of rent of tenant with right of occupancy.

32. No tenant having a right of occupancy in any land shall, in case of dispute as to the rent to be paid in respect of such land, be liable to an enhancement of the rent except in pursuance of a decree made under this Act on some one of the following grounds (that is to say) :—

1st Ground.—That the rate of rent paid by him is below the rate of rent usually paid by the same class of tenants having a right of occupancy, for land of a similar description and with similar advantages, situate in the same village.

Rule.—In this case the Court shall enhance his rent to such amount as the plaintiff demands, not exceeding such rate.

2nd Ground.—That the rate of rent paid by him is more than 12½ per cent. below the rate of rent usually paid by tenants of the same class not having a right of occupancy, for land of a similar description and with similar advantages, situate in the same village.

Rule.—In this case the Court shall enhance his rent to such amount as the plaintiff demands, not exceeding such rate less 12½ per cent.

3rd Ground.—That the quantity of land held by him exceeds the quantity for which he has previously paid rent.

Rule.—In this case the Court shall decree rent for the land in excess, at rates to be fixed by the first or the second of the rules contained in this section, as the case may be.

Nothing contained in the previous part of this section shall affect the terms of any agreement in writing hereafter entered into between a landlord and tenant.

Term for re-enhancement, after decision fixing rent under section 32.

33. After a decision has been passed in accordance with section 32, no suit shall lie for re-enhancement of such rent until the expiration of five years from the date of such decision, except on the said third ground, or, in the case referred to in section 34, until, by re-assessment within the said term of five years, the revenue of such land has been increased.

Enhancement on re-assessment of revenue.

34. On such re-assessment, if the rent of such tenant cannot be enhanced under section 32 by reason of the absence of the grounds therein mentioned, the landlord may institute a suit to enhance the rent to a sum not exceeding double the average amount of the revenue imposed at such re-

assessment upon land of a similar description and with similar advantages, held by tenants of the same class in the same village.

B.—Tenants not having Right of Occupancy.

Court not to enquire into propriety of rate of rent payable by tenant not having right of occupancy.

35. The Court shall in no case enquire into the propriety of the rate of rent payable by a tenant not having a right of occupancy.

The rent payable by such tenant for any land in his occupation shall be such amount as may be agreed upon between him and the landlord; or, if no such agreement has been made, such amount as was payable for the land in the last preceding year.

Suits in which there is evidence in writing of agreement to alter rent.

36. If in any suit between a landlord and a tenant not having a right of occupancy, the amount of rent payable by such tenant shall be disputed, he shall not be held liable to pay rent other than that payable by him for the last preceding year, unless the Court is satisfied by evidence in writing that the parties have agreed that the rent so payable shall be altered.

CHAPTER V.

EJECTMENT.

General Provisions.

Grounds on which tenant may contest liability to ejectment.

37. A tenant may contest his liability to be ejected from the land which he holds on any of the following grounds:—

First.—That he holds a lease or an agreement, or a decree of Court, under the terms of which he is not liable to such ejectment:

Second.—That he has a right of occupancy in the land:

Third.—And if he be a tenant not having a right of occupancy, that notice of ejectment has not been served upon him in manner provided by section 43.

Time of ejectment of tenant.

38. No tenant, except a sub-lessor, shall in any case, whether in execution of a decree or otherwise, be ejected from the land in his occupancy, except between the first day of April and the fifteenth day of June in any year after the passing of this Act; unless, while his rent is in arrear, he has failed to cultivate the land in his possession in accordance with the terms on which he holds it.

Time of ejectment of sub-lessor.

39. A sub-lessor liable to be ejected under the provisions of this Act may be ejected at any time during his tenancy.

Ejectment for arrears of rent.

40. Any tenant, other than a sub-lessor, from whom an arrear of rent remains due on the fifteenth day of May in any year after the passing of this Act, and any sub-lessor from whom an arrear of rent remains due at any time during his tenancy, may, subject to the provisions of sections 38, 39 and 41, be ejected from the land in respect of which the arrear is due.

Tenant with Right of Occupancy.

41. No tenant having a right of occupancy, or holding under an unexpired lease, or special agreement, or decree of Court, shall be ejected otherwise than in execution of a decree for ejectment:

Ejectment of tenant having right of occupancy.

Provided that, if the tenant have a right of occupancy in the land from which the landlord desires to eject him, the decree shall not be made unless, at the date of the decree, a decree against such tenant for an arrear of rent in respect of such land has remained unsatisfied for fifteen days or upwards.

Tenant without Right of Occupancy.

42. A tenant not having a right of occupancy and not holding under an unexpired lease or an agreement, or a decree of Court, may be ejected in accordance with the provisions of this Act; *first*, in execution of a decree for arrears of rent or for ejectment; or *second*, by notice given by his landlord in the manner described in section 43.

Ejectment of tenant not having right of occupancy.

Notice.

43. The notice mentioned in section 42 shall be written in Hindí and in Urdú; it shall specify the land from which the tenant is to be ejected; and it shall inform him that, if he means to dispute the ejectment, he must institute a suit for that purpose on or before the fifteenth day of May next after the service of the notice, or vacate the land on or before that date.

Notice of ejectment of tenant not having right of occupancy.

Service of Notice.

On the application of the landlord to the tahsíldár, or officer authorized to serve such notices, the notice shall be served by such officer on or before the fifteenth day of April in each year, and the landlord shall pay the costs of service.

The notice shall, if practicable, be served personally on the tenant. But if he cannot be found, service may be made by affixing the notice at his usual place of residence, or, if he does not reside in the district wherein the land is situate, at the village *chaupál* or other conspicuous place in the village wherein the land is situate.

Cessation of Tenancy.

44. If the tenant on whom such notice of ejectment has been served fails to institute a suit to contest his liability to be ejected, on or before the fifteenth day of May next after the service, his tenancy of the land in respect of which the notice has been served shall be held to cease on that date, unless, after the service, the landlord has expressly authorized him to continue to occupy the land.

If notice not contested, tenancy held to cease.

Assistance to eject.

When assistance to eject may be given by Court.

45. If no such suit be brought, and the landlord require the assistance of the Court to eject any person whose tenancy is alleged to have ceased under the provisions of section 44, he may apply for such assistance, and, if the Court is satisfied that notice of ejectment was duly served on such person, it shall give such assistance accordingly:

Provided that nothing done by the Court under the previous part of this section shall affect the right of any tenant to institute a suit against his landlord on account of illegal ejectment and to recover compensation for the same.

Growing Crops.

Compensation to ejected tenant for growing crops.

46. Any tenant ejected in accordance with the provisions of this Act, shall be entitled to receive from the landlord the value of any growing crops or other ungathered products of the earth belonging to such tenant, and being on the land at the time of his ejectment:

Provided that, if the land shall have been sown or planted by the tenant after the service on him of the notice mentioned in section 42, he shall not be so entitled unless, after such service, the landlord has expressly authorized him to continue to occupy the land.

CHAPTER VI.

Distress for Arrears of Rent.

Recovery of arrears of rent by distress.

47. When an arrear of rent is due from any tenant, the landlord may distrain the produce of the land in respect of which the arrear is due, subject to the rules contained in the following sections:

Proviso as to tenants who have given security for payment of rent.

Provided that, when a tenant has given security for the payment of his rent, the produce of the land in respect of which such rent is payable, shall not be liable to distress so long as the security is in force.

No distress in certain cases.

48. Distress shall not be made for any arrear which has been due for a longer period than one year; nor for the recovery of any sum in excess of the rent payable in the last preceding year for the land in respect of which the arrear is due, unless the tenant has agreed in writing to pay such excess, or unless he has been declared to be liable for the same by a decree of Court.

Power of distress by whom exercisable.

49. The power of distress, vested by section 47 in landlords, may be exercised by managers under the Court of Wards, managing agents and tahsíldárs of estates held under khám management, and other persons lawfully entrusted with the charge of land, and also by the agents employed by landlords or any such persons as aforesaid in the collection of rent, if expressly authorized by power-of-attorney to distrain:

Provided that, if any such agent, purporting to act in the exercise of the said power, commits an act which, under the provisions of this chapter, is illegal, the person employing such agent shall be liable, as well as the agent, to be sued for compensation for any injury caused by such act.

Liability of principal of agent.

50. Any person empowered to distrain property under section 47 or 49, may employ a servant or other person to make the distress; but in every such case he shall give to such servant or person a written authority for the same, and the distress shall be made in the name and on the responsibility of the person giving such authority.

Distress by servants.

51. Standing crops and other ungathered products of the earth, and crops or other products when reaped or gathered and deposited in any threshing-floor or place for treading out grain or the like, whether in the field or within a home-stead, may be distrained by persons invested with powers of distress under this Act.

Crops liable to distress.

But no such crops or products, other than the produce of the land in respect of which an arrear of rent is due, or of land held under the same agreement as the land in respect of which the arrear is due, and no grain or other produce after it has been stored by the cultivator, and no other property whatsoever, shall be liable to distress under this Act.

52. Before or at the time when any distress is made under this Act, the distrainer shall cause the defaulter to be served with a written demand for the amount of the arrear, together with an account exhibiting the grounds on which the demand is made.

Demand of arrear before or at time of distress.

The demand and account shall, if practicable, be served personally on the defaulter, but if he cannot be found, they shall be affixed at his usual place of residence, and shall thereupon be deemed to be duly served upon him.

53. Unless the amount of the demand is immediately paid or tendered, the distrainer may distrain property as aforesaid of value as nearly as may be equal to the amount of the arrear with the costs of the distress; and shall prepare a list or description of the said property, and deliver a copy of the same to the owner, or if he be absent, affix it at his usual place of residence.

Value of distress.

Service of list of property to be distrained.

54. Standing crops and other ungathered products of the earth may, notwithstanding the distress, be reaped or gathered by the tenant, and may be stored in such granaries or other places as are commonly used by him for the purpose.

Reaping and storing standing crops when distrained.

If the tenant neglect to do so, the distrainer may cause the said crops or products to be reaped or gathered, and, in such case, shall store the same either in such granaries or other places as aforesaid, or in some other convenient place in the neighbourhood.

In either case, the distrained property shall be placed in the charge of some proper person appointed by the distrainer for the purpose.

If the crops or products do not, from their nature, admit of being stored, the distress shall be made (if at all) at least twenty days before the time when the crops or products or any part thereof would ordinarily be fit for cutting or gathering.

Application by distrainer in case of resistance.

55. If a distrainer is opposed or apprehends resistance, and desires to obtain the assistance of a public officer, he may apply to the Court, and the Court may, if it think necessary, depute an officer to assist the distrainer in making the distress.

Withdrawal of distress on tender of arrear and costs.

56. If at any time after property has been distrained as aforesaid, and before the sale thereof as hereinafter provided, the owner tenders payment of the arrear demanded and of the costs of the distress, the distrainer shall receive the same and give a receipt therefor, and shall forthwith withdraw the distress.

Application for sale.

57. Within five days from the time of storing any distrained crops or products, or if such crops or products do not, from their nature, admit of being stored, within five days from the time of making the distress, the distrainer shall apply for sale of the same to the proper officer authorized to sell property in satisfaction of decrees of the Court within whose jurisdiction the distrained property is situate.

Form of application.

58. The application shall be in writing: it shall contain a list or description of the property distrained, and it shall state the name of the defaulter, his place of residence, the amount due, and the place in which the distrained property is deposited.

Together with the application, the distrainer shall deliver to the proper officer the sum payable for the service of a notice upon the defaulter as hereinafter provided.

Procedure on receipt of application.

59. Immediately on receipt of the application, the proper officer shall send a copy of it to the Court, and shall serve a notice in the form contained in schedule C hereto annexed or to the like effect on the person whose property has been distrained, requiring him either to pay the amount demanded, or within fifteen days from the receipt of the notice to institute a suit to contest the demand.

The officer shall at the same time send to the Court, for the purpose of being put up at the Court-house, a proclamation fixing a day for the sale of the distrained property, not less than twenty days from the date of the proclamation; and shall deliver a copy of the proclamation to the peon charged with the service of the notice, to be put up by him in the place where the distrained property is deposited.

The proclamation shall contain a description of the property, and shall specify the demand for which it is sold, and the place where the sale is to be held.

Suspension of sale on institution of suit.

60. If a suit is instituted in pursuance of the aforesaid notice, the Court shall send to the proper officer, or, if so requested by the owner of the distrained property, shall deliver to him, a certificate of the institution of the suit.

On such certificate being received by, or presented to, the proper officer, he shall suspend proceedings in regard to the sale:

Provided that, if in his opinion the property distrained is such that delay will cause damage thereto, he may direct its immediate sale.

Suit to contest distrainer's demand.

61. Any person whose property has been distrained as aforesaid, may institute a suit to contest the distrainer's demand at any time before the expiration of the fifteen days mentioned in section 59.

When such suit is instituted, the Court shall proceed in the manner prescribed in section 60.

If application for the sale of the property is afterwards made to the proper officer, he shall send a copy of the application to the Court, and suspend further proceedings pending the decision of the case.

Withdrawal of distress on execution of bond.

62. The person whose property has been distrained may, at the time of instituting any such suit as aforesaid, or at any subsequent period, execute a bond with one or more surety or sureties, for an amount not less than double the value of the property so distrained, binding himself to pay whatever sum may be adjudged to be due from him with costs of suit.

When such bond is executed, the Court shall give to the owner of the property a certificate to that effect, or, if he so requests, shall serve the distrainer with notice of the same.

Upon such certificate being presented to the distrainer by the owner of the property, or served on him by order of the Court, the property shall be released from distress.

Proceeding with sale, if, on expiration of time fixed, no suit instituted.

63. On the expiration of the period fixed in the proclamation of sale, if the institution of a suit to contest the demand of the distrainer has not been certified to the proper officer in the manner hereinbefore provided, he shall, unless the said demand, with such costs of the distress as are allowed by him, be discharged in full, proceed, with the sanction of the Court, to sell the property, or such part thereof as may be necessary.

Place and manner of sale.

64. The sale shall be held at the place where the distrained property is deposited, or at the nearest ganj, bázár or other place of public resort, if the proper officer thinks that it is likely to sell there to better advantage.

The property shall be sold by public auction in one or more lots as the officer holding the sale thinks advisable; and if the demand, with the costs of

distress and sale, be satisfied by the sale of a portion of the property, the distress shall be immediately withdrawn with respect to the remainder.

Postponement of sale where fair price not offered.

65. If on the property being put up for sale, a price which the officer holding the sale shall think fair be not offered, and if the owner of the property or his recognized agent apply to have the sale postponed until the next day, or (if a market be held at the place of sale) until the next market-day, the sale shall be postponed until such day, and shall be then completed at whatever price may be offered.

Payment of purchase-money.

66. The price of every lot shall be paid in ready money at the time of sale, or as soon thereafter as the officer holding the sale thinks fit; and in default of such payment, the property shall be put again and resold.

When the purchase-money has been paid in full, the officer holding the sale shall give the purchaser a certificate stating the property purchased by him and the price paid therefor.

Proceeds of sale.

67. The officer holding the sale shall deduct from the proceeds one anna for every rupee and fraction of a rupee, on account of the expenses attending the sale.

He shall then pay to the distrainer the expenses incurred by him on account of the distress and of the issue of the notice and proclamation of sale prescribed in section 59, to such amount as, after examination of the statement of expenses furnished by the distrainer, the officer thinks proper to allow.

The remainder shall be applied to the discharge of the arrear for which the distress was made, and the surplus (if any) shall be delivered to the person whose property has been sold.

Officers holding sales not to purchase.

68. Officers holding sales of property under this Act, and all persons employed by, or subordinate to, such officers, are forbidden to purchase, either directly or indirectly, property sold by such officers.

Illegal acts of distrainer to be reported.

69. The officer mentioned in section 57 shall bring to the notice of the Court any illegal act which shall come to his knowledge as having been committed by any person in making a distress under this Act.

If in any case, on proceeding to hold a sale under this Act, such officer finds that the owner has not received due notice of the distress and intended sale, he shall postpone the sale and report the case to the Court, and the Court shall direct the issue of another notice and proclamation of sale under section 59, or make such other order as it thinks proper.

Recovery of expenses if no sale takes place.

70. When such officer has gone to any place for the purpose of holding a sale, and no sale takes place, either for the reason stated in section 69, or because the distrainer's demand has been previously satisfied, the said charge on account of expenses attending the sale shall be leviable by the officer, and shall be calculated on the value of the distrained property, as estimated by

him, unless the distrainer's demand has been satisfied before the day fixed for the sale, and notice of such satisfaction has been given by him to the officer.

If the distrainer's demand be not satisfied until the day fixed for the sale, the charge shall be paid by the owner of the property, and may be recovered by sale of such portion thereof as may be necessary.

In every other case the charge shall be paid by the distrainer, and may be recovered under the warrant of the Court by attachment and sale of his property:

Provided that, in no case shall an amount exceeding ten rupees be recoverable under this section.

Second proclamation of sale when arrears adjudged due.

71. When a suit has been instituted to contest a distrainer's demand, and the property has not been released on security, if the demand or any portion of it shall be adjudged to be due, the Court shall issue an order to the proper officer authorizing the sale of the property.

On the application of the distrainer (which shall be made within five days from the receipt of such order by such officer), such officer shall publish a second proclamation in the manner prescribed in section 59, fixing another day for the sale of the distrained property, not less than five nor more than ten days from the date of the proclamation; and, unless the amount adjudged to be due with costs of distress be paid immediately, shall proceed to sell the property in the manner hereinbefore provided.

Distrainer to prove arrear in suits to contest his demand.

72. In all suits instituted to contest a distrainer's demand, the defendant must prove the arrear in the same manner as if he had himself brought a suit for the amount under the foregoing provisions of this Act.

If the demand or any part thereof is found to be due, the Court shall make a decree for the amount in favour of the distrainer.

Such amount may be recovered by sale of the distrained property as provided in section 71, and, if the distress has not been withdrawn and if any balance remain due after such sale, by execution of the decree against the person and any other property of the defaulter, or, if the distrained property have been released on security, by execution of the decree against the person and property of the defaulter, and, if his surety has been made a party to the suit, against the person and property of such surety.

Compensation for vexatious distress.

73. If the distress is adjudged to be vexatious or groundless, the Court, besides directing the release of the distrained property, may award such compensation to the plaintiff as it thinks fit, not exceeding twice the value of the property distrained.

Suit by third party claiming property distrained.

74. If any person claims, as his own, property which has been distrained for arrears of rent alleged to be due from any other person, the claimant may institute a suit against the distrainer and such other person to try the right

to the property, in the same manner, and under the same rules as to the time of instituting the suit and as to the consequent postponement of sale, as a person whose property has been distrained for an arrear of rent alleged to be due from him may institute a suit to contest the demand.

Release on giving security.

75. When any such suit is instituted, the property may be released upon security for its value being given to the satisfaction of the Court.

Order if claim dismissed.

If the claim is dismissed, the Court shall make an order in favour of the distrainer for the sale of the property or the recovery of its value, as the case may be.

Compensation when claim is upheld.

If the claim is upheld, the Court shall order the release of the distrained property, and may award such compensation as it thinks fit, not exceeding twice the value of the property distrained.

Landlord's prior claim to distrainable produce in possession of defaulting tenant.

76. No claim to any produce of land liable to distress under this Act, and found at the time of the distress in the possession of a defaulting tenant, whether such claim be in respect of a previous sale, mortgage, or otherwise, shall bar the landlord's prior claim, nor shall any attachment in execution of a decree of any Civil Court prevail against such claim.

Stranger claiming to be landlord and to have right of distress to be made party.

77. Whenever property has been distrained for an arrear of rent, and a suit has been instituted to contest the demand, and the right to distrain for such arrear is claimed by or on behalf of any person other than the distrainer, on the ground of such other person being actually and in good faith in the receipt and enjoyment of the rent of the land, such other person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by him before and up to the commencement of the suit shall be enquired into, and the suit shall be decided according to the result of such inquiry:

Provided that the decision of the Court shall not affect the right of any person having a title to the rent of the land, to establish such title in a Court of competent jurisdiction, by suit instituted within one year from the date of the decision.

Suit for illegal distress.

78. Any person whose property has been distrained for the recovery of a demand not justly due, or of a demand due or alleged to be due from some other person, and who is prevented by any sufficient cause from bringing a suit to contest the demand or try the right to the property, as the case may be, within the period allowed by sections 59 and 74, and whose property is in consequence brought to sale, may institute a suit to recover compensation for any injury which he has sustained from the distress or sale.

Suit for illegal act of distrainer.

79. If any person empowered to distrain property, or employed for the purpose under a written authority by a person so empowered, distrains or sells any property for the recovery of an arrear of rent alleged to be due, otherwise than according to the provisions of this Act,

or if any distrained property is lost, damaged or destroyed, by reason of the distrainer not having taken proper precaution for the due keeping and preservation thereof,

or if the distress is not immediately withdrawn when any provision of this Act requires such withdrawal—

the owner of the property may institute a suit to recover compensation for any injury which he has thereby sustained.

Suit for distress or sale falsely purporting to be under this Act.

80. If any person not empowered by this Act to distrain or sell, nor duly authorized for that purpose by a person so empowered, purports to distrain or sell any property under this Act, the owner of such property may institute a suit to recover compensation from the person so distraining or selling, for any injury which the plaintiff has sustained from the distress or sale.

Such suit shall not affect the defendant's liability to be prosecuted under any law for the time being in force.

Procedure in case of resistance to distress.

81. If any person resists a distress of property duly made under this Act, or forcibly or clandestinely removes any distrained property, the Court, upon complaint being made within ten days from the date of such resistance or removal, shall cause the person accused to be arrested and brought before the Court with all convenient speed, and the Court shall proceed forthwith to try the case.

If the case cannot be at once heard and determined, the Court may, if it think fit, require the party arrested to give security for his person, whenever the same may be required, and, in default of such security, may commit him to the civil jail until the case is tried.

Punishment of offender.

82. If such resistance or removal of property be proved, the Court may order the offender to pay a fine not exceeding one hundred rupees, together with all costs and expenses incurred in the case or in making the distress, and, in default of payment, may order him to be imprisoned in the civil jail until payment is made: Provided that no such imprisonment shall continue for more than six months.

CHAPTER VII.

Jurisdiction of the Courts.[a]

Suits cognizable.

Suits cognizable under Act.

83. The Courts of Revenue in Oudh shall take cognizance of the following descriptions of suits, and such suits shall be heard and determined

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[a] See *infra*, Act No. XVII of 1871, sec. 7.

in the said Courts in the manner provided in this Act, and not otherwise:—

A.—Suits by a Landlord.

(1).—For the delivery by a tenant of the counterpart of a lease under section 9;

(2).—For arrears of rent;

(3).—For the enhancement of the rent of a tenant having a right of occupancy;

(4).—For the ejectment of a tenant or for cancelling any lease on account of the non-payment of arrears of rent, or on account of a breach of the conditions of such lease;

(5).—Suits by landlords against patwárís or agents employed by landlords in the management of land or the collection of revenue or rent, or against the sureties of such patwárís or agents for money received or accounts kept by such patwárís or agents in the course of such employment, or for papers in their possession, or for the rendering and settlement of accounts.

B.—Suits by an Under-proprietor or a Tenant.

(6).—For establishing a right of occupancy;

(7).—For the delivery by a landlord of a lease;

(8).—For contesting a notice of ejectment;

(9).—For compensation—

on account of illegal enforcement of payment of rent, or of any sum in excess of rent due, or

on account of the refusal of receipts or acknowledgments for rent paid or tendered, or

on account of illegal ejectment, or

on account of the value of standing crops under section 46;

(10).—For the recovery of the occupancy of any land from which an under-proprietor or tenant has been illegally ejected by the landlord;

(11).—For contesting the exercise of the power of distraint conferred on landlords and others by this Act, or any acts purporting to be done in exercise of the said power, or for compensation for illegal distraint;

(12).—For abatement of rent in accordance with the provisions of section 19;

(13).—For the recovery of compensation for improvements in accordance with the provisions of section 22.

C.—Suits regarding the Division or Appraisement of Produce.

(14).—Suits under section 31, regarding the division, estimate or appraisement of the produce of land.

D.—Suits by, and against, Lambardárs, Co-sharers and Muáfídárs.

(15).—Suits by a sharer against a lambardár or co-sharer for share of the profits of an estate or any part thereof, or for the rendering and settlement of accounts in respect of such profits;

(16).—Suits by a lambardár or pattídár who is entitled to collect the rents of the pattí, for arrears of revenue or rent payable through him by the co-sharers whom he represents, and by a lambardár for village-expenses and other dues for which the co-sharers may be responsible to him, or against a joint lambardár for compensation for revenue or rent paid by such lambardár on account of such joint lambardár;

(17).—Suits by co-sharers against lambardárs, or by proprietors or lessees against muáfídárs or assignees of revenue, for compensation on account of exaction in excess of revenue or rent, or on account of the refusal of receipts or acknowledgments for revenue or rent paid or tendered;

(18).—Suits by muáfídárs or assignees of revenue for arrears of revenue.

Grades of Courts.

Grades of Courts for purposes of Act.

84. For the purposes of this Act, the Courts of Revenue shall consist of six grades of Courts, namely—

(1).—The Court of the Assistant Collector of the second class;

(2).—The Court of the Assistant Collector of the first class;

(3).—The Court of the Deputy Collector;

(4).—The Court of the Collector;

(5).—The Court of the Commissioner;

(6).—The Court of the Judicial[a] Commissioner.

Power to declare grade of Assistant Commissioner.

85. Subject to any orders that may from time to time be issued by the Governor General in Council, the Chief Commissioner of Oudh shall have power to declare to which of the first three grades any Assistant Commissioner shall belong, and to invest any Tahsíldár with the powers of any of the same grades.

Deputy Commissioner's powers.

86. The Deputy Commissioner shall exercise the powers of a Collector under this Act.

Settlement officers may be invested with powers of Collector, &c., under Act.

87. Subject to any orders in this behalf that may from time to time be made by the Governor General of India in Council, the Chief Commissioner of Oudh may invest any officer employed in making or revising settlements of revenue with all or any of the powers of a Collector, or Deputy Collector, or Assistant Collector, under this Act.

Jurisdiction of Assistant

88. The Court of the Assistant Collector of the second class shall have power to try and determine suits of the descriptions mentioned in clauses (1),

[a] See Act No. XXXII of 1871, s. 40.

Collector of second class.

(2), (7), (12), (15), (16), (17) and (18) of section 83, of which the subject-matter does not exceed one hundred rupees in value or amount.

Jurisdiction of Assistant Collector of first class.

89. The Court of the Assistant Collector of the first class shall have power to try and determine suits of the descriptions referred to in the last preceding section, of which the subject-matter does not exceed five hundred rupees in value or amount.

Jurisdiction of Deputy Collector.

90. The Court of the Deputy Collector shall have power to try and determine suits of every description, of which the subject-matter does not exceed five thousand rupees in value or amount.

Jurisdiction of Collector.

91. The Court of the Collector shall have power to try and determine suits of every description and of any amount, and to hear appeals from the decisions in suits, and (where an appeal is allowed by the Code of Civil Procedure as applied by this Act) from the orders, of the Assistant Collectors, and, in suits under clauses (2), (5), (9), (11), (14), (15), (16), (17) and (18) of section 83, from such decisions and orders of the Deputy Collectors.

Whenever the state of the public business requires it, the Chief Commissioner may invest any Deputy Collector with the powers of a Collector for the trial and determination of suits and appeals under this Act, other than appeals from the decisions of such Deputy Collector, and may, with the sanction of the Governor General of India in Council, invest any Collector with all or any of the powers of a Commissioner under this Act.

Jurisdiction of Commissioner.

92. The Court of the Commissioner shall have power to hear and determine appeals from decisions in suits, and (where an appeal is allowed by the Code of Civil Procedure) from the orders, of the Collectors and Deputy Collectors, except as otherwise provided in sections 91, 95 and 102.

Jurisdiction of Judicial Commissioner.

93. The Court of the Judicial[a] Commissioner shall have power to hear and determine appeals from the decisions in suits, and (where an appeal is allowed by the Code of Civil Procedure) from the orders, of the Commissioners, and also special appeals, as provided in the said Code, from the decisions passed in regular appeal by the Collectors and by the Commissioners.

Appeals.

Time for presenting appeals.

94. The memorandum of appeal, prepared in the form and containing the particulars mentioned in the Code of Civil Procedure, shall be presented to the Court empowered to hear the appeal within the period hereinafter specified, unless the appellant shall show sufficient cause, to the satisfaction of such Court, for not having presented the memorandum within such period; that is to say, thirty days if the appeal lie to the Collector, six weeks if the appeal lie to the Commissioner, and ninety days if the appeal lie to the Judicial[b] Commissioner.

[a, b] See Act No. XXXII of 1871, s. 40.

The period shall be reckoned from and exclusive of the day on which the decision or order appealed against was passed, and also exclusive of such time as may be requisite for obtaining a copy of the decree or order from which the appeal is made.

Applications for the admission of special appeals shall be presented in the Court of the Judicial Commissioner within the period hereinbefore fixed for the presentation of a memorandum of appeal.

No appeal, except in certain cases, from Collector's decree for money below one hundred rupees.

95. In suits under clauses (2), (5), (9), (11), (14), (15), (16), (17) and (18) of section 83, and in appeals from decisions in such suits tried and decided by a Commissioner or Collector, if the amount sued for does not exceed one hundred rupees, the judgment shall be final, except as hereinafter provided, unless in any such suit a question of right to enhance or otherwise vary the rent of a tenant, or any question relating to a title to land or to some interest in land, as between parties having conflicting claims thereto, has been determined by the judgment.

In such case the judgment shall be open to appeal in the manner provided in this Act.

Distribution of Business.

Deputy Commissioner may distribute business in subordinate Courts.

96. The Deputy Commissioner may direct the business in the Courts subordinate to him, whether or not they hold their sittings in the same place, to be distributed among such Courts in such way as he shall think fit.

Transfer of Suits and Appeals.

Power to withdraw suits from subordinate Courts.

97 The Commissioner or the Deputy Commissioner may withdraw any suit instituted in any Court subordinate to him, and try such suit himself, or refer it for trial to any other such Court competent to try the same.

Withdrawal or reference of appeals.

The Commissioner may also withdraw any appeal instituted in the Court of any Collector subordinate to him, and try the appeal himself, or refer it for trial to the Court of any other Collector in his Division.

Judicial Commissioner's power to transfer suits.

98. The Judicial[a] Commissioner may order that any suit or appeal which shall be instituted in or presented to any Court subordinate to him, shall be transferred to any other such Court competent to try or hear the subject-matter of the same.

Miscellaneous.

General subordination of Courts.

99. In the performance of their duties under this Act, the Collectors shall be subject to the direction and control of the Commissioners and of the Chief[b] Commissioner; and the Deputy Collectors and Assistant Collectors shall be

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a, b See Act No. XXXII of 1871, s. 40.

subject to the direction and control of the Deputy Commissioners to whom they are respectively subordinate :

Proviso.

Provided that nothing in this section shall empower the Chief[a] Commissioner, or any Commissioner or Deputy Commissioner, to interfere in any way not authorized by this Act with any decision or order in a suit.

Suits by or against managing agents or tahsildárs of khám estates.

100. All suits which, under the provisions of this Act, may be brought by or against landlords, may be brought by or against managing agents or tahsíldárs of estates held under khám management, whether such estates are the property of Government or not.

Sharer to exercise certain powers only through manager or lambardár.

101. No sharer in a joint estate, under-proprietary or other tenure, in which a division of land has not been made among the sharers, shall exercise any of the powers conferred by this Act in regard to the recovery of arrears of rent, enhancement of rent, ejectment of tenants or distress, otherwise than through a manager authorized to collect the rents on behalf of all the sharers.

In pattídárí estates or tenures such powers shall be exercised only through a lambardár, or through the pattídár who is entitled to collect the rents of the pattí.

Recovery of land of which applicant has been illegally dispossessed.

102. If any landlord, under-proprietor or tenant has, without his consent, been dispossessed of any land otherwise than by due course of law, such landlord, under-proprietor or tenant, or any person claiming through him, shall be entitled to recover possession thereof notwithstanding any other title has been set up, provided that he makes application to the Court to recover possession of the land within three months from the time of the dispossession.

But nothing in this section shall bar the person from whom possession has been so recovered, or any other person, from instituting a suit to establish his title to such land and to recover possession thereof.

The application mentioned in the first clause of this section shall be heard by the Collector or Deputy Collector only, and no appeal shall lie from any order passed thereon, nor shall any review of such order be allowed.

Courts may sit anywhere within limits of their jurisdiction.

103. The Courts may sit for the hearing and determining suits and appeals, and for disposing of other business under this Act, in any place within the local limits of their respective jurisdictions :

Provided that every hearing and decision shall be in open Court, and that the parties to the suit or their authorized agents shall have had due notice to attend at such place.

CHAPTER VIII.

LIMITATION OF SUITS.

General

104. Except as herein otherwise provided, and subject to the provisions as

[a] See Act No. XXXII of 1871, s. 40.

to legal disability contained in any law for the limitation of suits for the time being in force in Oudh, all suits under this Act shall be instituted within one year from the date of the accruing of the cause of action. Limitation.

105. Suits for the delivery of leases or the counterparts of leases may be instituted at any time during the tenancy. Suits for delivery of leases or counterparts.

106. Suits for the recovery of arrears of rent or revenue, or of a share of profits, shall, except in the case mentioned in section 16, be instituted within three years from the date on which the arrear or share of profit claimed shall have become due. Suits for arrears of rent or revenue, or share of profits.

107. Suits for the recovery of money in the hands of an agent, or for the settlement of accounts or delivery of papers by an agent, may be brought at any time during the continuance of the agency, or within one year after its determination, or, in the case of claims legally cognizable at the date of the passing of this Act, within one year after such date. Suits against agents for money, or delivery of accounts or papers.

108. Suits regarding distress under sections 74, 78, 79 or 80, and suits regarding the division, estimate or appraisement of the produce of land, shall be commenced within three months from the date of the accruing of the cause of action. Suits regarding distress, division of produce, &c.

CHAPTER IX.

PROCEDURE.

109. The provisions of the Code of Civil Procedure, as in force in Oudh, shall, so far as they are not inconsistent with the provisions herein contained, apply to all suits, appeals and proceedings under this Act. [a] Civil Procedure Code to be procedure under Act.

110. In addition to the particulars required by section 26 of the said Code to be specified in the plaint, the plaint shall contain the following particulars :— Particulars to be added to plaint.

1*st*.—The name of the village or estate, and of the pargana, in which the land to which the suit relates is situate ;

2*nd*.—If the suit be for the recovery of an arrear of rent, or for the enhancement or abatement of rent, or for the ejectment of a tenant, or for contesting a notice of enhancement of rent, or for contesting a notice for the ejectment of a tenant, or for the recovery of the occupancy or possession of any land, the plaint shall specify the extent, situation and designation of the land to which the suit relates, and, where fields have been marked in a Government survey, the number (if it be possible to give it) of each field ;

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[a] See Act No XVIII of 1876, s. 23.

3rd.—If the suit be for the recovery of an arrear of rent or revenue, the plaint shall specify the yearly rent or revenue of the land, the amount (if any) received on account of the year or years for which the claim is made, the amount in arrear, and the time in respect of which it is alleged to be due;

4th.—If the suit be for the delivery of a lease or the counterpart of a lease, the plaint shall specify all the particulars mentioned in section 7.

Third person claiming rent to be made party.

111. When in any suit between a landlord and an under-proprietor or tenant, the right to receive the rent of the land is claimed by a third person, on the ground that he, or a person through whom he claims, has actually and in good faith received and enjoyed such rent up to the time of the commencement of the suit, such third person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by him or the person through whom he claims shall be enquired into, and the suit shall be decided according to the result of such inquiry:

Provided always, that the decision of the Court shall not affect the right of any party having a legal right to the rent of such land to establish his title thereto in a Court of competent jurisdiction.

Summons to defendant.

112. In all suits under this Act, the summons to the defendant shall be for the final disposal of the suit.

Set-off in suits for arrears of rent.

113. In a suit to recover an arrear of rent, no set-off shall be allowed against the claim, except such amount as may be due to the defendant on an unexecuted decree under this Act against the plaintiff.

Defendant may pay money into Court.

114. In any suit under this Act involving a claim to money, the defendant may, at any stage of the suit, deposit in Court such sum of money as he considers a satisfaction in full of the plaintiff's claim, together with the costs incurred by the plaintiff up to the time of such deposit.

Notice of the deposit shall be given to the plaintiff, and the amount deposited shall be paid to him on his application.

No interest shall be allowed to a plaintiff on any sum paid by the defendant into Court from the date of such payment, whether such sum be in full of the plaintiff's claim or fall short thereof.

Procedure for balance unpaid by defendant.

115. In any case in which the defendant deposits less than the amount claimed by the plaintiff, nothing in section 114 shall bar the plaintiff from proceeding in the suit for the recovery of the balance.

Dismissal of suit for lease or counterpart, in absence of written evidence of agreement.

116. If a tenant not having a right of occupancy institute a suit against a landlord for the delivery of a lease, or a landlord institute a suit against a tenant not having a right of occupancy for the delivery of the counterpart of a lease, and the parties do not agree in respect of the particulars which such lease or counterpart is to contain, the Court shall dismiss the suit, unless evidence in writing is produced which shall satisfy the Court that an agreement

has been entered into between the parties in accordance with which such lease or counterpart ought to be delivered.

117. The local enquiry described in section 180 of the Code of Civil Procedure may also, if he think fit, be made by the Collector in person or other officer presiding in the Court, and the provisions of the said Code regarding local inquiries shall apply to such inquiries made by such Collector or other officer.

Collector may make local enquiry.

In such cases the Collector or other officer as aforesaid, after completing the inquiry, shall record on the proceedings such observations as he thinks fit, and the observations so recorded shall be received as evidence in the suit.

As to Decrees.

118. No process of execution shall be issued on a decree under this Act on any application made after the lapse of three years from the date of such decree, unless the decree be for a sum exceeding five hundred rupees, in which case the period within which execution may be had shall be regulated by the law in force as to the period allowed for the execution of decrees of the Civil Courts.

Execution not to issue on decree after lapse of three years from date.

119. When a decree for money is made in any suit under this Act, the Court may, on the oral application of the party in whose favour the decree is passed, direct immediate execution thereof in the manner described in section 13 of Act No. XXIII of 1861 (*to amend Act VIII of* 1859).

Immediate execution of decree.

120. When a decree in favour of the plaintiff is made in a suit for an enhancement of rent, the Court shall declare the date from which such enhancement shall take effect.

Date to be stated in decree for enhancement.

121. If the decree be for the delivery of papers or accounts, it may be enforced by the imprisonment in the civil jail of the party against whom it is made, or by the attachment of his property, or by both imprisonment and attachment.

Enforcement of decree for delivery of papers or accounts.

The imprisonment and attachment may be continued until he complies with the terms of the decree:

Provided that no person shall be imprisoned under this section for a longer period than six months.

122. A decree for the delivery of a lease or of the counterpart of a lease shall specify all the particulars mentioned in section 7, and such other particulars as to the Court seem fit.

Decrees for lease or counterpart.

123. If the decree be for the delivery of a lease or the counterpart of a lease, and the party ordered to deliver such lease or counterpart neglects or refuses so to do, the Court may grant a lease or counterpart in conformity with the terms of the decree, and such lease or counterpart shall have the same effect as if delivered by the party against whom the decree was passed.

Court after decree may grant lease or counterpart, in case of defendant's refusal.

Execution to be first made against moveable property.

124. If the decree be for money, no process in execution shall issue against the immoveable property of the judgment-debtor, other than attachment of such property, unless satisfaction of the decree cannot be obtained against his moveable property.

Sale of under-proprietary right in execution of decree for arrears of rent.

125. If the decree be for an arrear of rent due in respect of an under-proprietary right, the interest of the judgment-debtor in such right may, subject to the provisions of this Act, be sold in execution of the decree:

Provided that no such sale shall be allowed unless it appear to the Deputy Commissioner that satisfaction of the decree cannot be made in the manner referred to in sections 243 and 244 of the Code of Civil Procedure.

If it appear to the Court that such satisfaction can be made, the Court may exercise the powers given to it by the said section 243, although no application has been made by the judgment-debtor.

Appointment of Deputy Commissioner as manager.

The Deputy Commissioner may be appointed manager under the same section. When he has been so appointed, he may exercise, for the satisfaction of the decree against the judgment-debtor, all the powers which, under any law in force in Oudh, he might have exercised for the recovery of an arrear of revenue due by such judgment-debtor to the Government.

Registration of incumbrance created by under-proprietor.

126. No beneficial lease or other incumbrance hereafter created on his tenure by any under-proprietor shall be valid, in the event of the sale of his rights and interests in execution of a decree for arrears of rent, unless such incumbrance has been registered, under any rules or law for the time being in force in Oudh, within four months after the creation thereof, and not less than thirty days before the date of attachment of such rights and interests.

Proprietor's lien for rent payable by under-proprietor.

127. When an under-proprietor creates any such incumbrance, and fails to pay to the proprietor all or any part of the rent subsequently accruing in respect of the land subject to the incumbrance, the incumbrancer shall be liable to pay to the proprietor the whole or such part as aforesaid of the said rent, unless the proprietor has agreed in writing to waive any claim which he might otherwise have made on the incumbrancer under this section.

Right of pre-emption at execution-sales.

128. When land is sold in execution of a decree under this Act, and the land or any lot thereof has been knocked down to a stranger, any co-sharer, other than the judgment-debtor, may, before sunset on the day of sale, claim to take the land or lot, as the case may be, at the sum at which it was so knocked down.

If the land be an under-proprietary tenure, a like claim may also be made by the proprietor.

Any claim made under this section shall be allowed: Provided that, if a claim to the same land or lot be made by a proprietor as well as by a co-sharer, the claim of the co-sharer shall be preferred: Provided also, that no claim shall

be allowed unless the claimant fulfil all the conditions of the sale binding on a purchaser.

SCHEDULE A.*

(*See section* 15.)

I, *A. B.*, of &c., solemnly declare that I did personally [*or* by my agent *C. D.*] on the day of tender payment to *E. F.* at (the place where the { revenue / rent } of the lands at , held [*or* cultivated] by me under [*or* from *or* jointly with the said *E. F.*, are usually payable) of the sum of rupees as and for the whole amount due from me in respect of the { revenue / rent } of the said lands from the month of to the month of both inclusive. I further declare that the said *E. F.* refused to accept the said sum so tendered [*or* to give me a receipt in full, forthwith, for the sum so tendered]. And I declare that, to the best of my belief, the sum of rupees so tendered and which I now desire to pay into Court, is the full amount which I owe the said *E. F.* on account of the { revenue / rent } of the said lands from the month of to the month of both inclusive, and that I owe the said *E. F.* no further sum on account of the { revenue / rent } of the said lands.

I , the person named in the above declaration, do declare that what is stated therein is true to the best of my information and belief.

SCHEDULE B.†

(*See section* 15.)

Court of the of dated the day of 18 .

To *E. F.*, of &c.

With reference to the within declaration, you are hereby informed that the sum of rupees therein mentioned, is now in deposit in this Court, and that the above sum will be paid to you or your duly authorized agent on application. And take notice that if you have any further claim or demand

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* If this declaration is made by an agent, it must be altered accordingly.

† This is to be by endorsement on a copy of the declaration under schedule A made by the person paying the money into Court.

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whatsoever to make against the said *A*, *B*. in respect of the rent of the said lands, you must institute a suit in Court for the establishment of such claim or demand within six calendar months from this date, otherwise your claim will be for ever barred.

SCHEDULE C.

(*See section* 59.)

Office of *officer appointed to sell distrained property.*

A. B.—Distrainer.

Whereas the said *A. B.* has applied to have the distrained property specified below sold for the recovery of alleged to be due to him as arrears of rent, you are hereby required either to pay the said sum to the said *A. B.*, or to institute a suit before the Court to contest the demand within fifteen days from the receipt of this notice, failing which the property will be sold.

Dated this day of 186 .

SCHEDULE D.

(*See section* 109.)

Under the provisions of section 385 of Act No. VIII of 1859, and section 3 of Act No. IV of 1860, His Excellency the Governor General in Council is pleased to notify that, from first January 1862, Act VIII of 1859 is extended to the Province of Oudh, subject to the following exceptions and provisoes:—

1. Section 3 shall be subject to the following proviso:—

Provided that the Judicial Commissioner or any other Court exercising any appellate jurisdiction within the Province of Oudh, may, at any time within one year from the time of the passing or execution of any judgment or order by any Court subordinate to the said Appellate Court, call for such judgment or proceedings without any regular appeal or application for review having been preferred against the same, and may, if he or it shall see sufficient grounds, revise and alter, or reverse or confirm, the same. But that in such case, before revising, altering or reversing any one judgment or order, the said Judicial Commissioner, or it, shall cause the same notice to be given to the party in whose favour the said judgment or order was pronounced, and the same opportunity to such party to be heard in support thereof, and the same proceedings to be taken, as if a memorandum of appeal had been filed by the party aggrieved thereby.

2. Section 17 is excepted, and the term recognized agent is defined as follows, namely, a permanent servant, partner, relation or friend, whom the Court may admit as a fit person to represent a party, and especially persons holding powers-of-attorney from absent parties, persons carrying on business on behalf of bankers and traders, managing agents of landholders, nearest male relations of women, and persons *ex officio* authorized to act for Government, or for any Prince or Chief.

3. Section 111 shall be subject to the following limitation:—It shall not be obligatory on the Court to decide *ex parte* in the absence of defendant, but the Court may proceed to compel his attendance under the following rule, being the rule now in force in Oudh:—

Rule.—If the defendant does not appear, it shall be at the discretion of the Court to issue a warrant to arrest him and detain him till another day appointed for the hearing of the case, and to attach his property.

4. Section 172.—So much of this section as requires that the whole of the evidence shall be taken down in writing in the language in ordinary use is excepted, and the record made by the hand of the Judge, under the following rule, being the rule now in force in Oudh, shall be taken as a record of the evidence:—

Rule.—An intelligible note of the essential points of the evidence of each witness is to be taken at the time and in the course of oral examination by the officer who tries the case, in his own language. The notes must be legible, complete, and properly arranged, must attest the presence of the witness at the time, and mark every postponement and change of time and scene, so that their *bonâ fide* character may be apparent. Every essential point must be noted, but mere surplusage may be omitted. These notes shall be filed, and shall form part of the record of the case: Provided that in cases tried by a European officer, who has not passed the examination in the Native languages prescribed for Assistant Commissioners exercising special powers, the evidence of witnesses shall also be recorded at length in their own language.

Section 205.—So much of this section as renders land liable to sale in execution of a decree, will be subject to the restrictions on the sale of land prescribed by the following rule, being the local rule now in force in Oudh:—

Rule.—No ancestral property in land shall be sold in satisfaction of a decree, without the sanction of the Judicial Commissioner; and before acquired property in land shall be so sold, the permission of the Divisional Commissioner shall be obtained.

OUDH ESTATES ACT, 1869.

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ACT No. I OF 1869.

Received the Governor General's assent on the 12th of January 1869.

An Act to define the rights of Taluqdárs and others in certain estates in Oudh, and to regulate the succession thereto.

WHEREAS, after the re-occupation of Oudh by the British Government in the year 1858, the proprietary right in divers estates in that province was, under certain conditions, conferred by the British Government upon certain taluqdárs and others; and whereas doubts may arise as to the nature of the rights of the said taluqdárs and others in such estates, and as to the course of succession thereto; and whereas it is expedient to prevent such doubts, and to regulate such course, and to provide for such other matters connected therewith as are hereinafter mentioned; It is hereby enacted as follows :— Preamble.

I.—Preliminary.

1. This Act may be cited as "The Oudh Estates Act, 1869," and shall extend only to the estates hereinafter referred to. Short title. Extent of Act.

2. In this Act, unless there be something repugnant in the subject or context— Interpretation-clause.

"Transfer" means an alienation *inter vivos*: "Transfer."

"Will" means the legal declaration of the intentions of the testator with respect to his property affected by this Act, which he desires to be carried into effect after his death : "Will."

"Codicil."

"Codicil" means an instrument made in relation to a will, and explaining, altering or adding to its dispositions; It is considered as forming an additional part of the will:

"Signed."

"Signed" applies to the affixing of a mark:

"Registered."

"Registered" means registered according to the provisions of the rules relating to the registration of assurances for the time being in force in Oudh:

"Minor." "Minority."

"Minor" means any person who shall not have completed the age of eighteen years; and "minority" means the status of such person:

"Taluqdár."

"Taluqdár" means any person whose name is entered in the first of the lists mentioned in section 8:

"Grantee."

"Grantee" means any person upon whom the proprietary right in an estate has been conferred by a special grant of the British Government, and whose name is entered in the fifth or sixth of the lists mentioned in section 8:

"Estate."

"Estate" means the taluqa or immoveable property acquired or held by a taluqdár or grantee in the manner mentioned in section 3, section 4 or section 5, or the immoveable property conferred by a special grant of the British Government upon a grantee:

"Heir." "Legatee."

"Heir" means a person who inherits property otherwise than as a widow, under the special provisions of this Act; and "legatee" means a person to whom property is bequeathed under the same provisions:

Words expressing relationship.

Words expressing relationship denote only legitimate relatives, but apply to children in the womb who are afterwards born alive.

II.—Rights and Liabilities of Taluqdárs and Grantees.

Taluqdárs to have heritable and transferable rights in their estates.

3. Every taluqdár with whom a summary settlement of the Government revenue was made between the first day of April 1858 and the tenth day of October 1859, or to whom, before the passing of this Act and subsequently to the first day of April 1858, a taluqdárí sanad has been granted,

shall be deemed to have thereby acquired a permanent, heritable and transferable right in the estate comprising the villages and lands named in the list attached to the agreement or kabúliyat executed by such taluqdár when such settlement was made,

or which may have been or may be decreed to him by the Court of an officer engaged in making the first regular settlement of the province of Oudh, such decree not having been appealed from within the time limited for appealing against it, or, if appealed from, having been affirmed,

Subject to certain conditions.

subject to all the conditions affecting the taluqdár contained in the orders passed by the Governor General of India on the tenth and nineteenth days of October 1859 and re-published in the first schedule hereto annexed, and

subject also to all the conditions contained in the sanad under which the estate is held.

4. Every person whose lands the proclamation issued in Oudh in the month of March 1858 by order of the Governor General of India specially exempted from confiscation, and whose names are contained in the second schedule hereto annexed, shall be deemed to possess, in the lands for which such person executed a kabúliyat between the first day of April 1858 and the first day of April 1860, the same right and title which he would have possessed thereto if he had acquired the same in the manner mentioned in section 3; and he shall be deemed to hold the same subject to all the conditions affecting taluqdárs which are referred to in the said section, and to be a taluqdár for all the purposes of this Act. **Rights and liabilities of persons named in second schedule.**

5. Every grantee shall possess the same rights and be subject to the same conditions in respect of the estate comprised in his grant as a taluqdár possesses and is subject to, under section 3, in respect of his estate. **Grantees' rights and liabilities.**

6. Nothing in sections 3, 4 and 5, or in the said orders, or in any sanad, shall be deemed to bar a suit for redemption, **Saving of certain redemption-suits.**

(*a*) where the instrument of mortgage was executed on or after the thirteenth day of February 1844 and fixed no term within which the property comprised therein might be redeemed, or

(*b*) where the instrument of mortgage fixed a term within which the property comprised therein might be redeemed, and such term did not expire before the thirteenth day of February 1856.

7. If a taluqdár or grantee, or any heir or legatee of a taluqdár or grantee, desire that any elephants, jewels, arms or other articles of moveable property belonging to him shall devolve along with his estate, he shall take an inventory of such articles. Such inventory shall be signed by him and deposited in the office of the Deputy Commissioner of the district wherein such estate or the greater part thereof is situate; and thereupon such of the said articles as shall not have been transferred shall (so far as may be possible) be used and enjoyed by the person who, under or by virtue of this Act, is for the time being in actual possession or in receipt of the rents and profits of the said estate or the greater part thereof, otherwise than as mortgagee or lessee. **Heirlooms.**

III.—Lists of Taluqdárs and Grantees.

8. Within six months after the passing of this Act, the Chief Commissioner of Oudh, subject to such instructions as he may receive from the Governor General of India in Council, shall cause to be prepared six lists namely:— **Preparation of lists of taluqdárs and grantees.**

First.—A list of all persons who are to be considered taluqdárs within the meaning of this Act;

Second.—A list of the taluqdárs whose estates, according to the custom of the family on and before the thirteenth day of February 1856, ordinarily devolved upon a single heir;

Third.—A list of the taluqdárs, not included in the second of such lists, to whom sanads or grants have been or may be given or made by the British Government up to the date fixed for the closing of such lists, declaring that the succession to the estates comprised in such sanads or grants shall thereafter be regulated by the rule of primogeniture;

Fourth.—A list of the taluqdárs to whom the provisions of section 23 are applicable;

Fifth.—A list of the grantees to whom sanads or grants have been or may be given or made by the British Government, up to the date fixed for the closing of such list, declaring that the succession to the estates comprised in such sanads or grants shall thereafter be regulated by the rule of primogeniture;

Sixth.—A list of the grantees to whom the provisions of section 23 are applicable.

Publication of lists.

9. When the lists mentioned in section 8 shall have been approved by the Chief Commissioner of Oudh, they shall be published in the *Gazette of India.*[a] After such publication, the first and second of the said lists shall not, except in the manner provided by section 30 or section 31, as the case may be, be liable to any alteration in respect of any names entered therein.

Supplementary list.

If, at any time after the publication of the said lists, it appears to the Governor General of India in Council that the name of any person has been wrongly omitted from or wrongly entered in any of the said lists, the said Governor General in Council may order the name to be inserted in the proper list, and such name shall be published in the *Gazette of India* in a supplementary list, and such person shall be treated in all respects as if his name had been from the first inserted in the proper list.

None but persons named in lists to be deemed taluqdárs or grantees.

10. No persons shall be considered taluqdárs or grantees within the meaning of this Act, other than the persons named in such original or supplementary lists as aforesaid. The Courts shall take judicial notice of the said lists and shall regard them as conclusive evidence that the persons named therein are such taluqdárs or grantees.

IV.—Powers of Taluqdárs and Grantees to transfer and bequeath.

Taluqdárs and grantees may transfer and bequeath.

11. Subject to the provisions of this Act, and to all the conditions under which the estate was conferred by the British Government, every taluqdár and grantee, and every heir and legatee of a taluqdár and grantee, of sound mind and not a minor, shall be competent to transfer the whole or any portion of his

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[a] See *Gazette of India*, 31st July 1869, pp. 150—162: *ibid*, 10th June 1876, pp. 286, 287.

estate, or of his right and interest therein, during his life-time, by sale, exchange, mortgage, lease or gift, and to bequeath by his will to any person the whole or any portion of such estate, right and interest.

A married woman may make a bequest under this Act of any property which she could alienate by her own act during her life.

Persons who are deaf or dumb or blind are not thereby incapacitated for making a transfer or bequest under this Act, if they are able to know what they do by it.

One who is ordinarily insane may make a transfer or bequest under this Act during an interval in which he is of sound mind.

No person can make a transfer or bequest under this Act while he is in such a state of mind, whether from drunkenness, or from illness, or from any other cause, that he does not know what he is doing.

A transfer and a will, or any part of a will, the making of which has been caused by fraud or coercion, or by such importunity as takes away the free agency of the transferor or testator, is void.

Rule against perpetuity.

12. No transfer or bequest under this Act shall be valid whereby the vesting of the thing transferred or bequeathed may be delayed beyond the life-time of one or more persons living at the decease of the transferee or testator and the minority of some person who shall be in existence at the expiration of that period, and to whom, if he attains full age, the thing transferred or bequeathed is to belong.

Restriction as to donees and legatees.

13. No taluqdár or grantee, and no heir or legatee of a taluqdár or grantee, shall have power to give or bequeath his estate, or any portion thereof, or any interest therein, to any person not being either—

(1), a person who, under the provisions of this Act, or under the ordinary law to which persons of the donor's or testator's tribe and religion are subject, would have succeeded to such estate or to a portion thereof, or to an interest therein, if such taluqdár or grantee, heir or legatee, had died intestate, or

(2), a younger son of the taluqdár or grantee, heir or legatee, in case the name of such taluqdár or grantee appears in the third or the fifth of the lists mentioned in section 8,

except by an instrument of gift or a will executed and attested, not less than three months before the death of the donor or testator, in manner herein provided in the case of a gift or will, as the case may be, and registered within one month from the date of its execution.

V.—Transfers and Bequests.

Transfers and bequests.

14. If any taluqdár or grantee shall heretofore have transferred or bequeathed, or if any taluqdár or grantee, or his heir or legatee, shall hereafter

to taluqdárs or heirs.

transfer or bequeath, the whole or any portion of his estate to another taluqdár or grantee, or to such younger son as is referred to in section 13, clause 2, or to a person who would have succeeded according to the provisions of this Act to the estate or to a portion thereof if the transferor or testator had died without having made the transfer and intestate, the transferee or legatee and his heirs and legatees shall have the same rights and powers in regard to the property to which he or they may have become entitled under or by virtue of such transfer or bequest, and shall hold the same subject to the same conditions and to the same rules of succession as the transferor or testator.

Transfers and bequests to persons out of line of succession.

15. If any taluqdár or grantee shall heretofore have transferred or bequeathed, or if any taluqdár or grantee or his heir or legatee shall hereafter transfer or bequeath, to any person not being a taluqdár or grantee the whole or any portion of his estate, and such person would not have succeeded according to the provisions of this Act to the estate or to a portion thereof if the transferor or testator had died without having made the transfer and intestate, the transfer of and succession to the property so transferred or bequeathed shall be regulated by the rules which would have governed the transfer of and succession to such property if the transferee or legatee had bought the same from a person not being a taluqdár or grantee.

Transfers to be in writing signed and attested.

16. No transfer of any estate, or of any portion thereof, or of any interest therein, made by a taluqdár or grantee or by his heir or legatee under the provisions of this Act, shall be valid unless made by an instrument in writing signed by the transferor and attested by two or more witnesses.

Further requisites to validity of gifts *inter vivos.*

17. If any such transfer be made by gift, the gift shall not be valid unless, within six months after the execution of the instrument of gift, the gift be followed by delivery by the donor, or his representative in interest, of possession of the property comprised therein, nor unless the instrument shall have been registered within one month from the date of its execution.

Gifts to religious or charitable uses.

18. No taluqdár or grantee, and no heir or legatee of a taluqdár or grantee, shall have power to give his estate, or any portion thereof or interest therein, to religious or charitable uses, except by an instrument of gift executed not less than three months before his death, and subject to the provisions contained in section 17.

VI.—Testamentary Succession.

Sections of Succession Act applied to wills of taluqdárs.

19. Sections 49, 50, 51, 54, 55 and 57 to 77 (both inclusive), and sections 82, 83, 85 and 88 to 98 (both inclusive) of the Indian Succession Act (No. X of 1865), shall apply to all wills and codicils made by any taluqdár or grantee, or by his heir or legatee, under the provisions of this Act, for the purpose of bequeathing to any person his estate, or any portion thereof, or any interest

therein: Provided that marriage shall not revoke any such will or codicil: Provided also that nothing herein contained shall affect wills made before the passing of this Act.

In applying the said sections to wills and codicils made under this Act, all words hereinbefore defined, and occurring in such sections, shall (unless there be something repugnant in the subject or context) be deemed to have the same meaning as this Act has attached to such words respectively.

Bequests to religious and charitable uses.

20. No taluqdár or grantee, and no heir or legatee of a taluqdár or grantee, having a child, parent, brother, unmarried sister, or a nephew being the naturally born son of a brother of such taluqdár or grantee, heir or legatee, shall have power to bequeath his estate or any part thereof or any interest therein exceeding in amount or value the sum of two thousand rupees to religious or charitable uses, except by a will executed not less than three months before his death, and registered within one month from the date of its execution.

VII.—Intestate Succession.

'Son,' 'descendants,' 'daughter,' 'brother,' 'widow,' defined.

21. In the next following section, unless where there is something repugnant in the context, the words 'son,' 'descendants,' 'daughter' and 'brother' apply only to *najíb-ul-tarfain*, and the word 'widow' applies only to a woman belonging to the *ahl-i-brádarí* of her deceased husband.

Special rules of succession to intestate taluqdárs and grantees.

22. If any taluqdár or grantee whose name shall be inserted in the second, third or fifth of the lists mentioned in section 8, or his heir or legatee, shall die intestate as to his estate, such estate shall descend as follows, namely:—

(1).—to the eldest son of such taluqdár or grantee, heir or legatee, and his male lineal descendants, subject to the same conditions and in the same manner as the estate was held by the deceased;

(2).—or if such eldest son of such taluqdár or grantee, heir or legatee, shall have died in his life-time, leaving male lineal descendants, then to the eldest and every other son of such eldest son successively, according to their respective seniorities, and their respective male lineal descendants, subject as aforesaid;

(3).—or if such eldest son of such taluqdár or grantee, heir or legatee, shall have died in his father's life-time without leaving male lineal descendants, then to the second and every other son of the said taluqdár or grantee, heir or legatee, successively, according to their respective seniorities, and their respective male lineal descendants, subject as aforesaid;

(4).—or in default of such son or descendants, then to such son (if any) of a daughter of such taluqdár or grantee, heir or legatee, as has been treated by him in all respects as his own son, and to the male lineal descendants of such son, subject as aforesaid;

(5).—or in default of such son or descendants, then to such person as the said taluqdár or grantee, heir or legatee, shall have adopted by a writing executed and attested in manner required in case of a will and registered, subject as aforesaid;

(6).—or in default of such adopted son, then to the eldest and every other brother of such taluqdár or grantee, heir or legatee, successively, according to their respective seniorities, and their respective male lineal descendants, subject as aforesaid;

(7).—or in default of any such brother, then to the widow of the deceased taluqdár or grantee, heir or legatee; or, if there be more widows than one, to the widow first married to such taluqdár or grantee, heir or legatee, for her life-time only;

(8).—and upon the death of such widow, then to such son as the said widow shall, with the consent in writing of her deceased husband, have adopted by a writing executed and attested in manner required in case of a will and registered, subject as aforesaid;

(9).—or on the death of such first married widow and in default of a son adopted by her with such consent and in such manner as aforesaid, then to the other widow, if any, of such taluqdár or grantee, heir or legatee, next in order of marriage, for her life, and on the death of such other widow, to a son adopted by her with such consent and in such manner as aforesaid; or in default of such adopted son, then to the other surviving widows according to their respective seniorities as widows, for their respective lives, and on their respective deaths, to the sons so adopted by them respectively, and to the male lineal descendants of such sons respectively, subject as aforesaid;

(10).—or in default of any such widow or of any son so adopted by her, or of any such descendant, then to the male lineal descendants, not being *najíb-ul-tarfain*, of such taluqdár or grantee, heir or legatee, successively, according to their respective seniorities and their respective male lineal descendants, whether *najíb-ul-tarfain* or not;

(11).—or in default of any such descendant, then to such persons as would have been entitled to succeed to the estate under the ordinary law to which persons of the religion and tribe of such taluqdár or grantee, heir or legatee, are subject.

Nothing contained in the former part of this section shall be construed to limit the power of alienation conferred by section 11.

General rule of succession to intestate taluqdárs and grantees.

23. Except in the cases provided for by section 22, the succession to all property left by taluqdárs and grantees, and their heirs and legatees, dying intestate, shall be regulated by the ordinary law to which members of the intestate's tribe and religion are subject.

VIII.—*Maintenance.*

24. When any taluqdár or grantee, or his heir or legatee, dies leaving him surviving such relatives as are hereinafter mentioned, the person for the time being in the possession of his estate or the rents and profits thereof shall be liable to pay to each of such relatives during his or her life, or for such other period as is hereinafter mentioned, by twelve equal monthly payments, an annuity in accordance with the custom of the country not exceeding such amount as is hereinafter mentioned : Provided that such relative was at the date of the death of the deceased living together with him : Provided also that such relative is and continues to be without any other adequate means of maintenance. **Maintenance of surviving relatives of taluqdárs and grantees.**

If any part of such estate shall have been transferred or bequeathed by the deceased, the person for the time being in possession of such part, or of the rents and profits thereof, shall be liable to pay proportionate parts of the said annuities during the continuance thereof respectively.

25. In the case of the grand-parents, parents and senior widows of the deceased, the maximum amount of the annuity shall be as follows :— **Grand-parents, parents and senior widows.**

(*a.*) where the annual revenue payable to Government in respect of the estate is or exceeds 1,50,000 rupees——a sum not exceeding 6,000 rupees :

(*b.*) where such revenue is or exceeds 1,00,000 rupees, but is less than 1,50,000 rupees——a sum not exceeding 2,400 rupees :

(*c.*) where such revenue is or exceeds 50,000 rupees, but is less than 1,00,000 rupees——a sum not exceeding 1,200 rupees :

(*d.*) where such revenue is or exceeds 25,000 rupees, but is less than 50,000 rupees——a sum not exceeding 600 rupees :

(*e.*) where such revenue is or exceeds 15,000 rupees, but is less than 25,000 rupees——a sum not exceeding 360 rupees :

(*f.*) where such revenue is or exceeds 7,000 rupees, but is less than 15,000 rupees——a sum not exceeding 240 rupees ; and

(*g.*) where such revenue is less than 7,000 rupees — a sum not exceeding 180 rupees.

In the case of a junior widow of the deceased, the maximum amount of the annuity shall be one-half of the maximum amount to which a senior widow of the deceased would be entitled under the former part of this section. **Junior widows.**

26. In the case of brothers and minor sons of the deceased, the maximum amount of the annuity shall be a sum not more than 1,200 rupees. **Brothers and minor sons.**

In the case of nephews of the deceased, being fatherless minors, the maximum amount of the annuity shall be a sum not more than 600 rupees. **Nephews.**

Unmarried daughters, widows of sons and brothers and inferior widows.

27. In the case of unmarried daughters of the deceased, widows of his sons and brothers, and his widows not of his *ahl-i-brádarí*, the maximum amount of the annuity shall be a sum not more than 360 rupees.

Continuance of annuities.

28. Subject to the provisions hereinbefore contained, the said annuities shall continue—

(*a*) in the case of a minor son or a minor nephew, till he ceases to be a minor;

(*b*) in the case of a daughter or widow, till she voluntarily leaves the household of the heir or legatee of the deceased, or would, according to the custom of the country, cease to be entitled to maintenance; and

(*c*) in all other cases, till the annuitant dies.

IX.—*Miscellaneous.*

Muhammadan taluqdárs and grantees empowered to adopt.

29. Every Muhammadan taluqdár, grantee, heir or legatee, and every widow of a Muhammadan taluqdár or grantee, heir or legatee, with the consent in writing of her deceased husband, shall, for the purposes of this Act, have power to adopt a son whenever, if he or she were a Hindú, he or she might adopt a son.

Such power shall be exercisable only by writing executed and attested in manner required by section 19 in case of a will and registered.

Alteration of rules of intestate succession in cases of taluqdárs and grantees named in list 3 or list 5.

30. Any taluqdár or grantee whose name has been entered in the third or fifth of the lists mentioned in section 8, or his heir or legatee, may, at any time hereafter, present to the Chief Commissioner of Oudh a declaration in writing, executed and registered in the manner required by this Act for the execution and registration of an instrument of gift, that he is desirous that the succession to his estate shall, in case of his intestacy, cease to be regulated in the manner described in section 22, and that it shall in future be regulated by the ordinary law to which members of his tribe and religion are subject.

On receiving such declaration, the said Chief Commissioner shall cause to be inserted the name of such taluqdár or grantee, heir or legatee, in the fourth or sixth (as the case may be) of the lists mentioned in section 8, and shall cause a note thereof to be made in the proper place in the third or fifth (as the case may be) of the said lists, and the succession to such estate shall thenceforward, in case of intestacy, be regulated in the manner provided by section 23.

Reverter to ordinary law of succession.

31. Any taluqdár or grantee, heir or legatee, may, at any time hereafter present to the Chief Commissioner of Oudh a declaration in writing, executed and registered in the manner required by this Act for the execution and registration of instruments of gift, that he is desirous that his estate should in

future be held subject to the ordinary law of succession to which members of his tribe and religion are subject.

On receiving such declaration, the Chief Commissioner shall cause a note thereof to be made in the proper places in each of the lists mentioned in section 8 in which the name of such taluqdár or grantee, heir or legatee, has been entered, and thenceforward none of the provisions of this Act shall apply to such estate, which shall thenceforward be held subject in all respects to the ordinary law of succession to which members of his tribe and religion are subject.

Saving of rights of creditors.

32. Nothing hereinbefore contained shall affect any right which the creditors of any person making a transfer or bequest under the provisions of this Act, would have possessed as against the property comprised in such transfer or bequest if this Act had not been passed.

Awards as to compensation and maintenance.

33. And whereas bodies of taluqdárs have in several cases made awards respecting the provision to be made for certain relatives of taluqdárs, and it is expedient to render such awards legally enforceable; it is hereby further enacted that every such award shall, if approved by the Financial Commissioner of Oudh and filed in his Court within six months after the passing of this Act, be enforceable as if a Court of competent jurisdiction had passed judgment according to the award and a decree had followed upon such judgment.

SCHEDULES.

First Schedule.

(See section 3.)

I.

From C. Beadon, Esq., Secretary to the Government of India, Foreign Department, to C. J. Wingfield, Esq., Chief Commissioner of Oudh,—(No. 6268, dated 10th October 1859).

No. 1091, dated the 4th June.
No. 1377, dated the 15th July.

I am directed by the Governor General in Council to acknowledge the receipt of your secretary's letters noted in the margin, relative to the taluqdárí settlement of Oudh.

2. His Excellency in Council, agreeing with you as to the expediency of removing all doubts as to the intention of the Government to maintain the taluqdárs in possession of the taluqas for which they have been permitted to engage, is pleased to declare that every taluqdár with whom a summary settlement has been made since the re-occupation of the province, has thereby acquired a permanent hereditary and transferable proprietary right, namely, in

the taluqa for which he has engaged, including the perpetual privilege of engaging with the Government for the revenue of the taluqa.

3. This right is, however, conceded, subject to any measure which the Government may think proper to take for the purpose of protecting the inferior zamíndárs and village-occupants from extortion, and of upholding their rights in the soil in subordination to the taluqdárs.

4. The Governor General in Council desires that you will have ready, by His Excellency's arrival at Lakhnau, a list of the taluqdárs upon whom a permanent proprietary right has now been conferred; and that you will prepare sanads to be issued to these taluqdárs at that time. The sanads will be given by, and will run in the name of, the Chief Commissioner, acting under the authority of the Governor General.

5. I am directed to add that, as regards zamíndárs and others, not being taluqdárs, with whom a summary settlement has been made, the orders conveyed in the Limitation Circular No. 31 of the 28th of January 1859, must not be strictly observed. Opportunity must be allowed at the next settlement to all disappointed claimants to bring forward their claims, and all such claims must be heard and disposed of in the usual manner.

II.

From C. Beadon, Esq., Secretary to the Government of India, Foreign Department, with the Governor General, to Chief Commissioner, Oudh,—(No. 23, dated 19th October 1859).

I am directed by His Excellency the Governor General to acknowledge the receipt of your demi-official letter of the 15th instant, enclosing a form of sanad to be given to the taluqdárs of Oudh, granting them a full and permanent proprietary right in the taluqas for which they have severally been permitted to engage at the summary settlement.

2. This form of sanad is generally approved, and a revised copy, with some few alterations, is herewith enclosed for adóption and for careful translation into the Hindústání language, in which the sanads will be prepared.

3. The sanads declare that while, on the one hand, the Government has conferred on the taluqdárs and on their heirs for ever the full proprietary right in their respective estates, subject only to the payment of the annual revenue that may be imposed from time to time, and to certain conditions of loyalty and good service, on the other hand, all persons holding an interest in the land under the taluqdárs will be secured in the possession of the subordinate rights which they have heretofore enjoyed.

4. The meaning of this is that, when a regular settlement of the province is made, wherever it is found that zamíndárs or other persons have held an

interest in the soil intermediate between the raiyat and the taluqdár, the amount or proportion payable by the intermediate holder to the taluqdár, and the net jama finally payable by the taluqdár to the Government, will be fixed and recorded after careful and detailed survey and inquiry into each case, and will remain unchanged during the currency of the settlement, the taluqdár being, of course, free to improve his income and the value of his property by the reclamation of waste-lands (unless in cases where usage has given the liberty of reclamation to the zamíndár), and by other measures of which he will receive the full benefit at the end of the settlement. Where leases (pattás) are given to the subordinate zamíndárs, they will be given by the taluqdár, not by the Government.

5. This being the position in which the taluqdárs will be placed, they cannot, with any show of reason, complain if the Government takes effectual steps to re-establish and maintain in subordination to them the former rights, as those existed in 1855, of other persons whose connexion with the soil is in many cases more intimate and more ancient than theirs; and it is obvious that the only effectual protection which the Government can extend to these inferior holders, is to define and record their rights and to limit the demand of the taluqdár as against such person during the currency of the settlement to the amount fixed by the Government as the basis of its own revenue-demand.

6. What the duration of the settlement shall be, and what proportion of the rent shall be allowed in each case to zamíndárs and taluqdárs, are questions to be determined at the time of settlement.

The Governor General agrees in your observation that it is a bad principle to create two classes of recognized proprietors in one estate, and it is likely to lead to the alienation of a larger proportion of the land-revenue than if there were only one such class. But whilst the taluqdárí tenure, notwithstanding this drawback, is about to be recognized and re-established, because it is consonant with the feelings and traditions of the whole people of Oudh, the zamíndárí tenure intermediate between the tenures of the taluqdár and the raiyat is not a new creation, and it is a tenure which, in the opinion of the Governor General, must be protected.

SECOND SCHEDULE.

(See section 4.)

(1).—Dig-Bijay Singh, Rájá of Balrámpúr.

(2).—Rao Hardeo Bakhsh Singh, of Katíari.

(3).—Káshí Parshád, Taluqdár of Sisséndí.

(4).—Jhabba Singh, Zamíndár of Gopál Khéra.

(5).—Chandan Lál, Zamíndár of Moraon (Baiswára).

ACT No. XXIV of 1870.

Received the Governor General's assent on the 7th of September 1870.

An Act to relieve from incumbrances the estates of Taluqdárs in Oudh.

Preamble.

WHEREAS many of the taluqdárs of Oudh are in debt, and their immoveable property is subject to mortgages, charges and liens; and whereas it is expedient to provide for their relief in manner hereinafter appearing; It is hereby enacted as follows:—

I.—PRELIMINARY.

Short title.

1. This Act may be called "The Oudh Taluqdárs Relief Act."

Interpretation-clause.

2. In this Act—

'Chief Commissioner' means the Chief Commissioner of Oudh:

'taluqdár' means a person whose name is entered in the first of the lists mentioned in the Oudh Estates' Act, 1869, section eight:

'heir' means the person for the time being entitled under the same Act as heir to a taluqdár.

II.—VESTING ORDER.

Power to vest management of taluqdár's property in officer appointed by Chief Commissioner.

3. Whenever, within twelve months after the passing of this Act, any taluqdár,

or (when such taluqdár is an infant, or of unsound mind, or an idiot) his guardian, committee or other legal curator,

or the person who would be heir to such taluqdár if he died intestate,

or (when such person is an infant, or of unsound mind, or an idiot) his guardian, committee or other legal curator,

applies in writing to the Chief Commissioner, stating that the taluqdár is subject to, or that his immoveable property is charged with, debts or liabilities other than debts due, or liabilities incurred, to Government, and requesting that the provisions of this Act be applied to his case,

the Chief Commissioner may, with the previous consent of the Governor General of India in Council, by order published in the local official Gazette, appoint an officer (hereinafter called the manager), and vest in him the management of the immoveable property of or to which the taluqdár is then possessed or entitled in his own right, or which he is entitled to redeem, or which may be acquired by or devolve on the taluqdár or his heir during the continuance of such management.

Effect of order.
Bar of suits

4. On such publication, the following consequences shall ensue:—

first, all proceedings in respect to such debts or liabilities which may then

be pending in any Civil Court in British India, shall be barred; and all processes, executions and attachments for or in respect of such debts and liabilities shall become null and void; against taluqdár.

secondly, so long as such management continues, Taluqdár freed from arrest,

the taluqdár and his heir shall not be liable to arrest for or in respect of the debts and liabilities to which the taluqdár was immediately before the said publication subject, or with which his immoveable property or any part thereof was then charged, other than debts due, or liabilities incurred, to Government;

nor shall their moveable property be liable to attachment or sale, under process of any Civil Court in British India, for or in respect of such debts and liabilities other than as aforesaid; and and his moveable property from attachment for prior debts.

thirdly, so long as such management continues, Cessation of his power to alienate.

(*a*) the taluqdár and his heir shall be incompetent to mortgage, charge, lease or alienate their immoveable property or any part thereof, or to grant valid receipts for the rents and profits arising or accruing therefrom,

and (*b*) such property shall be exempt from attachment or sale under such process as aforesaid, except for or in respect of debts due, or liabilities incurred, to Government. Immoveable property freed from attachment.

III.—Duties of Manager.

5. The manager shall, during his management of the said property, receive and recover all rents and profits due in respect thereof; and shall, upon receiving such rents and profits, give receipts for the same. Manager to receive rents and profits,

From the sums so received, he shall pay—

first, the Government revenue, and all debts or liabilities for the time being due or incurred to Government in respect of the said property: and pay therefrom Government demand,

secondly, such annual sum as appears to the Chief Commissioner requisite for the maintenance of the taluqdár, his heir and their families: annual sum for maintenance of taluqdár and his heir,

thirdly, the costs of such repairs and improvements of the property as appear necessary to the manager and are approved by the Chief Commissioner: costs of repairs and improvements,

and the residue shall be applied in discharge of the costs of the management, and in settlement of such debts and liabilities of the taluqdár and his heir and their immoveable property, as may be established under the provisions hereinafter contained. costs of management, and debts and liabilities.

IV.—Settlement of Debts.

6. On the publication of the order vesting in him the management of the said property, the manager shall publish in the local official Gazette a notice in English and Urdú, calling upon all persons having claims against the taluqdár Notice to claimants against taluqdár.

or his immoveable property to notify the same in writing to such manager within three months from the date of the publication.

Copies of notice to be exhibited.

He shall also cause copies of such notice to be exhibited at the tahsíldárs' kachahrís in the district or districts in which the said property lies and at such other places as the manager thinks fit.

Claim to contain full particulars

7. Every such claimant shall, along with his claim, present full particulars thereof.

Documents to be given up.

Every document on which the claimant founds his claim, or on which he relies in support thereof, shall be delivered to the manager along with the claim.

Entries in books.

If the document be an entry in any book, the claimant shall produce the book to the manager, together with a copy of the entry on which he relies. The manager shall mark the book for the purpose of identification, and, after examining and comparing the copy with the original, shall return the book to the claimant.

Exclusion of documents not produced.

If any document in the possession or under the control of the claimant is not delivered or produced by him to the manager along with the claim, the manager may refuse to receive such document in evidence on the claimant's behalf at the investigation of the case.

Debt or liability not duly notified, to be barred.

8. Every debt or liability (other than debts due, or liabilities incurred, to Government) to which the taluqdár is subject, or with which his immoveable property or any part thereof is charged, and which is not duly notified to the manager within the time and in manner hereinbefore mentioned, shall be barred:

Provision for admission of claim within further period of nine months.

Provided that, when proof is made to the manager that the claimant was unable to comply with the provisions of sections 6 and 7, the manager may admit such claim within the further period of nine months from the expiration of the said period of three months.

Determination of debts and liabilities.

9. The manager shall, in accordance with the rules to be made under this Act, determine the amount of the debts and liabilities due to the several creditors of the taluqdár and persons holding mortgages, charges or liens on the said property or any part thereof.

Appeal.

10. An appeal against any refusal, admission or determination under sections 7, 8 or 9 shall lie, if preferred within six weeks from the date of such determination, to the Commissioner of Division to whom the manager is subordinate, and the decision of such Commissioner, or of the manager if no such appeal has been so preferred, shall be final.

Scheme for settlement of debts and liabilities.

11. When the total amount of such debts and liabilities has been finally determined, the manager shall prepare and submit to the Chief Commissioner a schedule of such debts and liabilities, and a scheme for the settlement

thereof; and such scheme, when approved by the Chief Commissioner, shall be carried into effect.

Until such approval is given, the Chief Commissioner may, as often as he thinks fit, send back such scheme to the manager for revision, and direct him to make such further enquiry as may be requisite for the proper preparation of the scheme.

Power to return scheme for revision.

12. When all such debts and liabilities have been discharged,

or if, within six months after the publication of the order mentioned in section 3, the Chief Commissioner thinks that the provisions of this Act should not continue to apply to the case of the taluqdár or his heir,

Restoration of taluqdár to property.

the taluqdár or his heir shall be restored to the possession and enjoyment of his immoveable property, or of such part thereof as has not been sold by the manager under the power contained in section 19, but subject to the leases and mortgages (if any) granted and made by the manager under the powers hereinafter contained.

Where the taluqdár or his heir is so restored under the circumstances mentioned in the second clause of this section, the proceedings, processes, executions and attachments mentioned in section 3[a] (so far as they relate to debts and liabilities not settled by the manager), and the debts and liabilities barred by section 8, shall be revived, and any mortgagee dispossessed under section 17 shall be re-instated unless his claim under the mortgage has been satisfied;

Revival of barred proceedings and debts.

and in calculating the periods of limitation applicable to such revived proceedings and to suits to recover and enforce such revived debts and liabilities, the time intervening between such restoration and the publication of the order mentioned in section 3 shall be excluded.

V.—Powers of Manager.

13. The manager may, from time to time, call for further and more detailed particulars of any claim preferred before him under this Act, and may at his discretion refuse to proceed with the investigation of the claim until such particulars are supplied.

Power to call for further particulars.

14. For the purposes of this Act, the manager may summon and enforce the attendance of witnesses and compel them to give evidence, and compel the production of documents by the same means, and, as far as possible, in the same manner, as is provided in the case of a Civil Court by the Code of Civil Procedure.

Power to summon witnesses and compel production of documents.

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[a] *Sic.* Read 4.

Power to administer oaths.

15. The manager may administer an oath in such form as he thinks fit to any person examined before him touching the matters to be enquired into under this Act.

Investigation to be deemed judicial proceeding.

16. Every investigation conducted by the manager with reference to any claim preferred before him under this Act, or to any matter connected with any such claim, shall be taken to be a judicial proceeding within the meaning of the Indian Penal Code.

Statements of persons examined to be evidence.

And every statement made by any person examined by or before the manager with reference to such investigation, whether upon oath or otherwise, shall be taken to be evidence within the meaning of the same Code.

Manager to have powers of taluqdár.

17. The manager shall have, for the purpose of realizing and recovering the rents and profits of the said immoveable property, the same powers as the taluqdár would have had for such purpose if this Act had not been passed.

Power to remove mortgagee in possession.

And if such property, or any part thereof, be in the possession of any mortgagee, the manager may apply to the Court of the Deputy Commissioner within whose jurisdiction the property is situate, and such Court shall cause the same to be delivered to the manager as if a decree therefor had been made in his favour; but without prejudice to the mortgagee preferring his claim under the provisions hereinbefore contained.

Power to lease.

18. Subject to the rules made under section 20, the manager shall have power to demise all or any part of the said property, for any term of years not exceeding twenty years absolute, to take effect in possession, in consideration of any fine or fines, or without fine, and reserving such rents and under such conditions as may be agreed upon.

Power to raise money by mortgage or sale.

19. The manager, with the previous assent of the Chief Commissioner, shall have power to raise any money which may be required for the settlement of the debts and liabilities (other than as aforesaid) to which the taluqdár is subject, or with which his immoveable property or any part thereof is charged,

by demising by way of mortgage the whole or any part of such property for a term not exceeding twenty years from the said publication,

or by selling, with the previous consent of the taluqdár and of the person (being of full age) who would be his heir if he died intestate, by public auction or by private contract, and upon such terms as the manager thinks fit, such portion of the same property as may appear expedient.

And no mortgagee advancing money upon any mortgage made under this section, shall be bound to see that such money is wanted or that no more than is wanted is raised.

Manager's receipts.

And the receipt of the manager for any monies paid to him upon any mortgage or sale made under this section, or for any rents or profits received

by him under section 5, shall discharge the person paying the same therefrom and from being concerned to see to the application thereof.

The power to mortgage conferred by this section shall not be exercisable until six months have elapsed from the publication of the order mentioned in section 3.

VI.—Miscellaneous.

20. The Chief Commissioner may, from time to time, make rules consistent with this Act in all matters connected with its enforcement. Power to make rules.

Such rules, when approved by the Governor General of India in Council, and published in the local official Gazette,[a] shall have the force of law.

21. Whenever the Chief Commissioner thinks fit, he may appoint any officer to be a manager in the stead of any manager appointed under this Act; and thereupon the management then vested under this Act in the former manager shall become vested in the new manager. Power to appoint new managers.

Every such new manager shall have the same powers as if he had been originally appointed.

22. Every manager appointed under this Act shall be deemed a public servant within the meaning of the Indian Penal Code. Managers to be public servants.

23. No suit or other proceeding shall be maintained against any person in respect of anything done by him *bonâ fide* pursuant to this Act. Bar of suits.

24. No petition, application, memorandum of appeal or other proceeding under this Act, shall be chargeable under the Court Fees Act, 1870. Petitions, &c., under Act exempt from Court-fees.

25. Nothing in this Act precludes the Courts of the Province of Oudh, having jurisdiction in suits relating to the succession to or rights of persons claiming maintenance from any immoveable property brought under the operation of this Act, from entertaining and disposing of such suits; but to all such suits the manager of such property shall be made a party. Saving of jurisdiction of Courts in Oudh in respect of certain suits.

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[a] See *Oudh Gazette*, 1st April 1871, p. 198.

THE PRISONS ACT, 1870.

ARRANGEMENT OF SECTIONS.

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1. Short title.
   Local extent.
2. [*Repealed.*]
3. Interpretation-clause.

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4. Local Government to provide prison-accommodation.
5. Temporary shelter of prisoners.
6. Inspector General of Prisons.
7. Officers of prison.
8. Appointment of officers.
9. Salaries, suspension and dismissal of officers.

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11. Officers not to sell or let to prisoners.
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    nor to benefit by sales.

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15. To report special cases.
16. To make entries as to death of prisoners.
17. Deputy medical officer.
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20. To give notice of death of prisoners.
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27. Prisoners to be searched on entrance.
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30. Requisitions of Act as to separation of prisoners.
31. Rules as to separate confinement.
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34. Civil prisoner may maintain himself.
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37. Work and earnings of civil prisoners.
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CHAPTER VIII.—HEALTH OF PRISONERS.

40. Names of sick prisoners to be reported to gaoler.
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CHAPTER IX.—VISITS TO AND CORRESPONDENCE OF PRISONERS.

SECTIONS.

43. Visits to prisoners.
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45. Carrying liquor, tobacco or drugs into prison.
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56. Exercise of powers of superintendent.

ACT No. XXVI OF 1870.

Received the Governor General's assent on the 3rd of October 1870.

An Act to amend the law relating to Prisons.[a]

Preamble.

WHEREAS it is expedient to amend the law relating to prisons in the North-Western Provinces, the Panjáb, Oudh, the Central Provinces and British Burma, and to provide rules for the regulation of such prisons; It is hereby enacted as follows :—

CHAPTER I.—PRELIMINARY.

Short title.

1. This Act may be called "The Prisons Act, 1870 :"

[a] See 28 & 29 Vic., c. 126.

It extends only to the territories respectively under the government of the Lieutenant Governors of the North-Western Provinces and the Panjáb, and under the administration of the Chief Commissioners of Oudh, the Central Provinces and British Burma.[a] Local extent.

2. [*Repealed by Act No. XII of* 1873.] Interpretation-clause.

3. In this Act—

"prison" means any gaol or penitentiary, and includes the airing-grounds or other grounds or buildings occupied for the use of the prison: "Prison."

"criminal prisoner" means any prisoner charged with or convicted of a crime: "Criminal prisoner."

and "civil prisoner" means any prisoner confined in a civil jail, or on the civil side of a jail. "Civil prisoner."

CHAPTER II.—Maintenance and Officers of Prisons.

4. The Local Government shall provide for the prisoners in the territories under such Government, accommodation in a prison or prisons constructed and regulated in such manner as to comply with the requisitions of this Act in respect of the separation of prisoners. Local Government to provide prison accommodation.

5. Whenever it appears to the Local Government that the number of prisoners in any prison is greater than can conveniently or safely be kept therein, Temporary shelter of prisoners.

or whenever from the outbreak of epidemic disease within any prison, or for any other reason, it is desirable to provide for the temporary shelter and safe custody of any prisoners,

provision shall be made by such officer and in such manner as the Local Government from time to time directs, for the temporary shelter and safe custody of so many of the prisoners as cannot be conveniently or safely kept in the prison.

Prisoners for whom such temporary shelter is provided shall be subject to the same rules as if they were within the prison.

6. An Inspector General of Prisons shall be appointed in the North-Western Provinces by the Local Government, in the Panjáb by the Local Government, and in Oudh, the Central Provinces and British Burma, by the Governor General in Council.[b] Inspector General of Prisons.

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[a] It has been extended to Coorg (Act II of 1871) and applied to the Haidarábád Assigned Districts, *Gazette of India*, 21st January 1871, p. 31.

[b] Under this section the Sanitary Commissioner of Oudh has been appointed *ex officio* Inspector General of Prisons in that Province, *Gazette of India*, 11th March 1871, p. 148.

In each Inspector General so appointed shall be vested (subject to the orders of the Local Government) the general control and superintendence of all prisons situate in the territories under such government.

Officers of prison.

7. For every prison there shall be a superintendent, a medical officer (who may also be the superintendent), a gaoler and such subordinate officers as the Local Government thinks necessary.

Subject to the orders of the Governor General in Council, the Local Government may direct that for any specified prison there shall also be a deputy medical officer and a deputy gaoler.

Appointment of officers.

8. The Local Government shall appoint the superintendent and the medical officer and the deputy medical officer.

The superintendent (subject to the approval of the Inspector General of Prisons) shall appoint the gaoler and deputy gaoler.

The superintendent shall also appoint the subordinate officers.

Salaries, suspension and dismissal of officers.

9. Every officer appointed under this Act shall receive such salary as (subject to the approval of the Governor General of India in Council) the Local Government directs; and may be suspended or dismissed by the authority appointing him:

Provided that no gaoler or deputy gaoler shall be dismissed without the consent of the Inspector General of Prisons.

Any subordinate officer dismissed under this section may appeal to the Inspector General, whose orders on such appeal shall be final.

CHAPTER III.—Duties of Officers.

Generally.

Officers to obey superintendent.

10. All officers of a prison shall obey the directions of the superintendent: all subordinate officers shall perform such duties as may be directed by the gaoler with the sanction of the superintendent; and the duties of each subordinate officer shall be inserted in a book to be kept by him.

Officers not to sell or let to prisoners.

11. No officer of a prison shall sell or let, nor shall any person in trust for or employed by him sell or let, or derive any benefit from selling or letting, any article to any prisoner.

Officers not to contract with prisoners; nor to benefit by sales.

12. No officer of a prison shall, nor shall any person in trust for or employed by him, have any interest, direct or indirect, in any contract for the supply of the prison: nor, except so far as is expressly allowed by rules made under section 54, shall he derive any benefit, directly or indirectly, from the sale of any article on behalf of the prison or belonging to a prisoner.

Superintendent.

13. Subject to the orders of the Inspector General of Prisons, the superintendent shall— Duties of superintendent.

manage the prison in all matters relating to discipline, labour, expenditure, punishment and control:

correspond on all matters connected with the prison with and through the Inspector General:

submit to the Inspector General all bills of prison-expenditure with proper vouchers for audit:

report to the Inspector General from time to time, as they occur, all escapes and recaptures, and all outbreaks of epidemic disease:

send to the Inspector General returns of all prisoners sentenced to transportation:

periodically inspect all property of the Government in his charge, and report thereon to the Inspector General;

and, generally, obey all rules made under section 54 for the guidance of the superintendent.

The superintendent shall also obey all orders respecting the prison given by the Magistrate of the District, or the Deputy Commissioner, as the case may be, and shall report to the Inspector General all such orders and the action taken thereon.

Medical Officer.

14. The Local Government shall make rules as to each of the following matters:— Power to make rules as to medical officer's duties.

how often the medical officer shall visit the prison and see each prisoner:

the records to be made respecting sick prisoners:

periodical inspection of every part of the prison:

reports on its cleanliness, drainage, warmth and ventilation:

reports on the provisions, water, clothing and bedding supplied to the prisoners.

The medical officer shall obey such rules. Medical officer to obey such rules.

15. Whenever the medical officer has reason to believe that the mind of a prisoner is, or is likely to be, injuriously affected by the discipline or treatment to which he is subjected, the medical officer shall report the case in writing to the superintendent, together with such directions as the medical officer thinks proper. To report special cases.

16. On the death of any prisoner, the medical officer shall forthwith record in writing the following particulars, namely,— To make entries as to death of prisoners.

when the deceased was taken ill,

when the medical officer was first informed of the illness,

the nature of the disease,

when the prisoner died,

and (in cases where a *post mortem* examination is made) an account of the appearances after death,

together with any special remarks that appear to the medical officer to be required.

Deputy medical officer.

17. Where a deputy medical officer is appointed to a prison, he shall be competent to perform any duty required by this Act, or by any rule made hereunder, to be performed by the medical officer.

Subordinate medical officer.

When there is no deputy medical officer, or when his services are not available by reason of sickness or other cause, the Local Government may, by general or special order, appoint a subordinate medical officer to act as a substitute for the medical officer, and the subordinate medical officer so appointed shall perform all the duties of the medical officer.

Gaoler.

Residence of gaoler.

18. The gaoler shall reside in the prison, unless the superintendent permits him in writing to reside elsewhere. The gaoler shall not, without the Inspector General's sanction, be concerned in any other employment.

To deliver list of prisoners in punishment-cells.

19. The gaoler shall deliver to the medical officer daily a list of such prisoners as are confined in punishment-cells.

To give notice of death of prisoners.

20. Upon the death of a prisoner, the gaoler shall give immediate notice thereof to the superintendent.

To keep enumerated books and accounts.

21. The gaoler shall keep, or cause to be kept, the following records :—

(1) a register of warrants;

(2) a book showing when each prisoner is to be released;

(3) a punishment-book for the entry of the punishments inflicted for prison-offences;

(4) a visitors' book for the entry of any observations made by visitors to the prison;

(5) a record of the money and other articles taken from prisoners;

and all such other records as may be prescribed by rules made under section 54.

Responsible for safe custody of documents.

22. The gaoler shall be responsible for the safe custody of the records to be kept by him under section 21, and also for the commitments and all other documents confided to his care.

Not to be absent without leave.

23. The gaoler shall not be absent from the prison for a night without permission in writing from the superintendent; but if absent without leave

for a night from unavoidable necessity, he shall report the fact and the cause of it to the superintendent.

24. Where a deputy gaoler is appointed to a prison, he shall be competent to perform any duty required by this Act or by any rule made under section 54 to be performed by the gaoler. Deputy gaoler.

Where there is no deputy gaoler, or where his services are not available by reason of sickness or other cause, the superintendent shall, when the gaoler is absent from the prison or temporarily incapacitated, appoint an officer of the prison to act as his substitute during such absence or incapacity, and the substitute so appointed shall have all the powers and perform all the duties of the gaoler.

Subordinate Officers.

25. The officer acting as gate-porter, or any other officer of the prison, may examine anything carried in or out of the prison, and may stop and search any person suspected of bringing in spirits or other prohibited articles into the prison, or of carrying out any property belonging to the prison, and if any such articles or property be found, shall give immediate notice thereof to the gaoler. Powers of gate-porter.

26. Subordinate officers shall not be absent from the prison without leave from the superintendent, or from the gaoler, and before absenting themselves they shall leave their keys in the gaoler's office. Subordinate officers not to be absent without leave.

CHAPTER IV.—Admission, Removal and Discharge of Prisoners.

27. When a prisoner is first admitted, and whenever he afterwards enters the prison, he shall be searched, and all weapons and prohibited articles shall be taken from him. Prisoners to be searched on entrance.

Every criminal prisoner shall also, as soon as possible after admission, be examined by the medical officer, who shall enter in a book, to be kept by the gaoler, a record of the state of the prisoner's health, and any observations which the medical officer thinks fit to add. Medical examination of criminal prisoners.

28. All money or other effects in respect whereof no order of a competent Court has been made, and which may be brought into the prison by any criminal prisoner, or sent to the prison for his use, shall be placed in the custody of the gaoler. Effects of criminal prisoners retained.

29. All prisoners, previously to being removed to any other prison, shall be examined by the medical officer. Medical examination before removal and discharge of prisoners.

No prisoner shall be removed to any other prison unless the medical officer certifies that the prisoner is free from any illness rendering him unfit for removal.

No prisoner shall be discharged against his will from prison, if labouring under any acute or dangerous distemper, nor until, in the opinion of the medical officer, such discharge is safe.

CHAPTER V.—Discipline of Prisoners.

Requisitions of Act as to separation of prisoners.

30. The requisitions of this Act, with respect to the separation of prisoners, are as follows :—

(1.)—In a prison containing female prisoners as well as males, the women shall be imprisoned in separate buildings or separate parts of the same building, in such manner as to prevent their seeing, or conversing or holding any intercourse with, the men.

(2.)—In a prison where children under twelve years of age are confined, means shall be provided for separating them altogether from the other prisoners.

(3.)—Criminal prisoners before trial shall be kept apart from convicted prisoners.

(4.)—Civil prisoners shall be kept apart from criminal prisoners.

Rules as to separate confinement.

31. The Local Government shall have power to make rules—

(1) as to what cells only shall be used for the separate confinement of prisoners :

(2) as to the time during which prisoners not guilty of offences against prison-rules may be confined separately.

Cells to be furnished with means of communication.

32. No cell shall be used for separate confinement unless it is furnished with the means of enabling the prisoner to communicate at any time with an officer of the prison.

Prisoners under sentence of death.

33. Every prisoner under warrant or order for execution shall, immediately on his arrival in the prison after sentence, be searched by, or by order of the gaoler, and all articles shall be taken from him which the gaoler deems it dangerous or inexpedient to leave in his possession.

Every such prisoner shall be confined in a cell apart from all other prisoners, and shall be placed by day and by night under the charge of an officer or guard.

CHAPTER VI.—Food, Clothing and Bedding of Prisoners.

Civil prisoner may maintain himself.

34. A civil prisoner shall be permitted to maintain himself, and to purchase or receive from private sources at proper hours, food, clothing, bedding or other necessaries, but subject to examination and to such rules as may be approved by the Inspector General.

35. No part of any food, clothing, bedding or other necessaries belonging to any civil prisoner shall be sold to any other prisoner; and any civil prisoner transgressing this regulation shall lose the privilege of purchasing food or receiving it from private sources, for such time as the superintendent thinks proper.

Civil prisoner not to sell provisions.

36. Every civil prisoner unable to provide himself with sufficient clothing and bedding, shall be supplied by the superintendent with such clothing and bedding as may be necessary.

Allowance of clothing and bedding.

When any such prisoner has been committed to prison in execution of a decree in favour of a private person, such person, or his representative, shall be liable to pay to the superintendent on demand the cost of the clothing and bedding so supplied to the prisoner; and in default of such payment the prisoner shall be released.

Judgment-creditor to defray such allowance.

CHAPTER VII.—Employment of Prisoners.

37. Civil prisoners may, with the superintendent's permission, work and follow their respective trades and professions.

Work and earnings of civil prisoners.

Civil prisoners finding their own implements and not maintained at the expense of the prison, shall be allowed to receive the whole of their earnings; but the earnings of such as are furnished with implements, or are maintained at the expense of the prison, shall be subject to a deduction, to be determined by the superintendent, for the use of implements and the cost of maintenance.

38. The medical officer shall, from time to time, examine the labouring prisoners while they are employed, and shall enter in his journal the name of any prisoner whose health he thinks likely to be injured by a continuance at hard labour, and thereupon such prisoner shall not again be employed at such labour until the medical officer certifies that he is fit for such employment.

Examination by medical officer of labouring prisoners.

But if the medical officer certifies that such prisoner may without detriment to his health be employed on some lighter kind of labour, it shall be lawful for the gaoler so to employ him.

39. Provision shall be made by the superintendent for the employment (as long as they so desire) of all criminal prisoners sentenced to simple imprisonment.

Employment of prisoners sentenced to simple imprisonment.

The superintendent shall make rules as to the amount and nature of such employment; but no prisoner not sentenced to rigorous imprisonment shall be punished for neglect of work, excepting by such alteration in the scale of diet as may be established by the rules of the prison in the case of neglect of work by such prisoners.

CHAPTER VIII.—Health of Prisoners.

Names of sick prisoners to be reported to gaoler.

40. The names of prisoners desiring to see the medical officer or appearing out of health in mind or body shall be reported by the officer attending them to the gaoler.

Gaoler to report them to medical officer.

The gaoler shall, without delay, call the attention of the medical officer to any prisoner desiring to see him, or who is ill, or whose state of mind or body appears to require attention,

and shall carry into effect the medical officer's written directions respecting alterations of the discipline or treatment of any such prisoner.

Entry of directions by medical officer.

41. All directions given by the medical officer in relation to any prisoner, with the exception of orders for the supply of medicines or directions relating to such matters as are carried into effect by the medical officer himself or under his superintendence, shall be entered day by day in his journal, which shall have a separate column wherein entries shall be made by the gaoler, stating in respect of each direction the fact of its having been or not having been complied with, accompanied by such observations, if any, as the gaoler thinks fit to make, and the date of the entry.

Infirmaries.

42. In every prison an infirmary or proper place for the reception of sick prisoners shall be provided.

CHAPTER IX.—Visits to and Correspondence of Prisoners.

Visits to prisoners.

43. Due provision shall be made for the admission, at proper times and under proper restrictions, into every prison of persons with whom prisoners before trial may desire to communicate.

Correspondence of prisoners.

The Local Government shall also impose such restrictions upon the communication and correspondence of prisoners with their friends as it thinks necessary for the maintenance of good order and discipline.

Power of gaoler as to visitors.

44. The gaoler may demand the name and address of any visitor to a prisoner; and, when the gaoler has any ground for suspicion, may search visitors, or cause them to be searched, but the search shall not be in the presence of any prisoner or of another visitor.

In case of any such visitor refusing to be searched, the gaoler may deny him admission; and the grounds of such proceeding, with the particulars thereof, shall be entered in his journal.

CHAPTER X.—Offences in Relation to Prisons.

Carrying liquor, tobacco or

45. Whoever, contrary to the regulations of the prison, brings, throws or attempts by any means whatever to introduce, into any prison, or any place

provided under section 5 for the temporary shelter and safe custody of prisoners, any spirituous or fermented liquor, or tobacco, or intoxicating or poisonous drug, drugs into prison.

and every officer of a prison who knowingly suffers any such liquor, tobacco or drug to be sold or used in such prison or place contrary to such regulations, Suffering liquor, &c., to be sold or used in prison,

and whoever, contrary to such regulations, conveys, or attempts to convey, any letter or other article not allowed by such regulations, into or out of any such prison or place, carrying letters into and out of prison,

and whoever abets within the meaning of the Indian Penal Code any offence made punishable by this section, abetment of such offences.

shall, on conviction before a Magistrate, be liable to rigorous imprisonment for a term not exceeding six months, or to fine not exceeding two hundred rupees, or to both.

46. The superintendent shall cause to be affixed, in a conspicuous place outside the prison or the place provided as aforesaid, a notice setting forth the penalties incurred by persons committing any offence under section 45. Notice of penalties to be placed outside prison.

CHAPTER XI.—Prison Offences.

47. The following acts are declared to be offences against prison-discipline :— List of prison-offences.

(1) wilful disobedience to the regulations of the prison by any prisoner;

(2) assaults or use of criminal force by any prisoner;

(3) insulting or threatening language by any prisoner to any officer or prisoner;

(4) indecent or disorderly behaviour by any prisoner;

(5) wilfully disabling himself from labour;

(6) contumaciously refusing to work;

(7) filing or cutting irons or bars;

(8) idleness or negligence at work by any convicted criminal prisoner;

(9) wilful mismanagement of work by any convicted criminal prisoner;

(10) wilful damage to prison-property;

(11) conspiring to escape, or to assist in escaping, or to commit any other of the offences aforesaid.

48. The superintendent may examine any person touching such offences, and determine thereupon, and punish such offences— Superintendent's power to punish prison-offenders.

(1) by imprisoning the offender in solitary confinement for any time not exceeding seven days;

(2) by ordering the offender for any time not exceeding three days to close confinement, to be there kept upon a diet reduced to such extent as the Local Government shall prescribe;

(3) by corporal punishment not exceeding thirty stripes of a ratan; or

(4) where the offender is not sentenced to rigorous imprisonment, by hard labour for any time not exceeding seven days.

The gaoler shall enter in a separate book, called the punishment-book, a statement of the nature of any offence that has been punished under this section, with the addition of the name of the offender, the date of the offence, and the amount of punishment inflicted. Such statement shall be signed by the superintendent.

Punishment of prisoners by Magistrate.

49. If any prisoner is guilty of repeated offences against prison-discipline, or is guilty of any offence against prison-discipline which the superintendent thinks is not adequately punishable under section 48, the superintendent shall report the same to the Magistrate of the district or any Magistrate empowered to receive complaints without reference by the Magistrate of the district.

Such Magistrate shall have power to inquire upon oath and to determine concerning any matter so reported to him, and to sentence the offender to be punished—

by confinement in a punishment-cell or in irons for any term not exceeding six months,

or by corporal punishment not exceeding thirty stripes of a ratan,

or by rigorous imprisonment for a term not exceeding six months, such term to be in addition to the term for which he is undergoing imprisonment.

Nothing in this or the last preceding section shall authorize the infliction of corporal punishment, or confinement in irons, on any female prisoner or any civil prisoner.

Corporal punishment.

50. All corporal punishment within the prison shall be inflicted in the presence of the superintendent, subject to the law for the time being in force relating to the infliction of corporal punishment and the precautions to be taken in reference thereto.

Penalty on officers ill-treating prisoners or violating rules.

51. Every gaoler and subordinate officer of a prison ill-treating any prisoner, or wilfully violating or neglecting any rule contained in this Act or made under section 54, shall be liable, on conviction before the superintendent, to fine not exceeding one hundred rupees, or, on conviction before a Magistrate not being the superintendent, to fine not exceeding two hundred rupees, or rigorous imprisonment for a term not exceeding one month, or both.

Any fine imposed by the superintendent under this section may be recovered, either by deductions from the convicted officer's salary and allowances, or under the law for the time being in force for the recovery of fines.

No person shall, under this section, be punished twice for the same offence.

CHAPTER XII.—MISCELLANEOUS.

Confinement in irons of prisoners sentenced to rigorous imprisonment.

52. Whenever the superintendent considers it necessary (with reference either to the state of the prison or the character of the prisoners) for the safe custody of any prisoners that they should be confined in irons, the superintendent may so confine them.

Confinement in irons by gaoler of his own authority.

53. Except in case of urgent necessity, no prisoner shall be put in irons or under mechanical restraint by the gaoler of his own authority, and notice thereof shall be forthwith given to the superintendent.

Except in case of urgent necessity, no prisoner shall be kept in irons or under mechanical restraint for more than twenty-four hours, without an order in writing from the superintendent specifying the cause thereof, and the time during which the prisoner is to be kept in irons or under mechanical restraint. Such order shall be kept by the gaoler as his warrant.

Power to make supplementary prison-rules.

54. The Local Government may, from time to time, make rules consistent with this Act,

(1) for the government of prisons and for the guidance of all officers appointed hereunder:

(2) as to sales of articles on behalf of prisons or belonging to prisoners, and as to the commission receivable thereon:

(3) as to the food and clothing of criminal prisoners:

(4) for the employment and control of convicts within or without prisons, and for the guidance of the guards in charge of such convicts:

(5) for remission of sentences:

(6) for rewards for good conduct; and

(7) for the appointment and guidance of visitors of prisons.

Copies of such rules, so far as they affect the government of prisons, shall be exhibited in some place to which all persons employed within a prison have access.

Present rules.

55. All rules now in force relating to any of the matters mentioned in sections 14, 31, 39 and 54 shall, so far as such rules are consistent with this Act, be deemed to have been made under those sections respectively.

Exercise of powers of superintendent.

56. All or any of the powers and duties conferred and imposed by this Act on a superintendent may be exercised and performed by such other officer as the Local Government from time to time appoints in this behalf.

THE EXCISE ACT, 1871.

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ACT No. X OF 1871.

Received the Governor General's assent on the 24th of March 1871.

An Act to consolidate and amend the laws relating to the Excise Revenue in Northern India, British Burma and Coorg.

WHEREAS it is expedient to consolidate and amend the laws in force in Northern India, British Burma and Coorg, relating to the manufacture of spirits, the sale of spirituous and fermented liquors and intoxicating drugs, and the collection of the revenue derived therefrom; It is hereby enacted as follows:— Preamble.

I.—PRELIMINARY.

1. This Act may be called "The Excise Act, 1871:" Short title.

It extends to the territories respectively under the government of the Lieutenant Governors of the North-Western Provinces and the Panjáb, and under the administration of the Chief Commissioners of Oudh, the Central Provinces, British Burma and Coorg. Local extent.

2. [*Repealed by Act No. XII of* 1873.]

3. In this Act, Interpretation-clause.

"Chief Revenue Authority" means,—

in the territories subject to the Lieutenant Governor of the North-Western Provinces—the Board of Revenue,

in the Panjáb and Oudh—the Financial Commissioner,[a] and

in the Central Provinces, British Burma and Coorg—the Chief Commissioner:

"Collector" includes any revenue officer in independent charge of a district and a superintendent of excise revenue: "Collector."

"Magistrate" means any Magistrate exercising powers not less than those of a subordinate Magistrate of the first class: "Magistrate."

"Country-spirit" means any spirit made by the Native process of distillation: "Country-spirit."

"Intoxicating drugs" includes gánja, bháng, charas and every preparation and admixture of the same.[b] "Intoxicating drugs."

4. Nothing herein contained affects Act No. XVI of 1863 (*to make special provision for the levy of the excise-duty payable on spirits used exclusively in arts and manufactures or in chemistry*). Saving of Act No. XVI of 1863.

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[a] This office was abolished in Oudh by Act No. XI of 1871.
[b] and shall not include opium, Act No. XXIII of 1876, sec. 2.

II.—Manufacture of Spirits and Fermented Liquor.

English distilleries not to be constructed or worked without license.

5. No person shall construct or work a distillery after the manner in which distilleries are constructed and worked in England, without a license under the hand of the Collector of the district in which such distillery is situated.

Chief Revenue Authority to prescribe rules for regulating English distilleries.

6. The Chief Revenue Authority may from time to time make rules relative to—

(*a*) the granting of licenses under section 5;

(*b*) the notices to be given by the proprietor of a licensed distillery when he commences and discontinues work;

(*c*) the size and description of the stills;

(*d*) the passing and storing of the spirits;

(*e*) the inspection and examination of the distillery and warehouses, and of the spirits manufactured and stored therein;

(*f*) the furnishing of statements and lists of such spirits, and of the stills, coppers, casks and other utensils used in the distillery.

Collectors may establish distilleries for country-spirits.

7. The Collector, with the sanction of the Chief Revenue Authority, may—

(*a*) establish, at any place within his jurisdiction, a distillery in which spirits may be manufactured after the Native process,

(*b*) from time to time fix limits within which no country-spirits, except such as are manufactured at the said distillery, shall be introduced or sold without a special pass from the Collector, and within which no stills shall be constructed or worked, or spirits manufactured, except at the said distillery, and

(*c*) discontinue any distillery so established.

Chief Revenue Authority may prescribe rules for distilleries.

8. The Chief Revenue Authority may from time to time make rules relative to—

(*a*) the management of distilleries established under section 7;

(*b*) the conditions on which spirits may be manufactured in the said distilleries, and

(*c*) the passes to be issued for the conveyance of such spirits to the shops of the vendors.

Breweries not to be constructed or worked without license.

9. No person shall construct or work a brewery, or manufacture any description of malt-liquor, without a license from the Collector.

The Chief Revenue Authority may from time to time make rules relative to the granting of licenses for constructing and working breweries.

Sanction to rules under sections 6, 8 and 9.

10. Except in the Central Provinces, British Burma and Coorg, the sanction of the Local Government is required to validate rules under sections 6, 8 and 9.

11. No person shall manufacture spirits after the Native process except under license from the Collector.

Prohibition of unlicensed manufacture of country-spirits.

III.—Sale of Spirits, Fermented Liquor and Intoxicating Drugs.

12. Spirituous liquors passed from distilleries worked according to the English method, fermented liquors manufactured at a licensed brewery, and spirituous and fermented liquors imported either by land or by sea, shall not be sold except under license from the Collector.

English spirits and fermented liquor not to be sold without license.

13. Persons taking out licenses for the wholesale vend of spirituous and fermented liquors as aforesaid shall pay, for every such license, such sum as the Chief Revenue Authority from time to time prescribes.

Fee for wholesale license.

The license shall be current only during the official year, and in the district in which it is granted.

But travelling merchants may obtain, under such rules and restrictions as the Chief Revenue Authority from time to time prescribes, a general license authorizing them to sell by wholesale, in any district which they may visit in the course of their travel, without taking out a fresh license for that district.

14. Persons taking out licenses for the retail-sale of spirituous and fermented liquors as aforesaid shall pay for every such license such fee or tax as the Chief Revenue Authority fixes, and such fee or tax shall be payable at such periods as the said authority directs.

Fee for retail-license.

Any sale of spirituous or fermented liquors as aforesaid, in less quantity than two imperial gallons or one dozen of quart bottles, shall be held to be a retail-sale.

What to be held a retail-sale.

15. No person shall sell spirits manufactured by the Native process, or tárí or pachwáí, or any intoxicating drug, except under license from the Collector.

Country-spirits and drugs not to be sold without license.

16. All the provisions relating to the sale or possession of fermented liquors contained in the following sections apply to the sale or possession of tárí, whether in a fermented state or otherwise; and all tárí, both fresh and fermented, is included in the expression "fermented liquors" as used in the following sections.

Tárí to be deemed a fermented liquor.

17. Provided that the Local Government may suspend the operation of all the provisions relating to tárí contained in this Act, with respect to any district in which the consumption of tárí in a fermented state is inconsiderable; and thereupon tárí may be possessed and sold without license in such district, notwithstanding anything contained in this Act.

Proviso.

18. [*Repealed by Act No. XXIII of* 1876.]

Sale of more than specified quantities of country-spirits, &c., prohibited.

19. Except for the supply of licensed vendors, or under a special order from such officer as the Local Government appoints in this behalf, country-spirits, tárí and pachwáí, and intoxicating drugs shall not be sold in larger quantities than are hereunder specified—

country-spirits, one ser;

tárí or pachwáí, four sers;

gánja or bháng, or any preparation or admixture thereof, one quarter of a ser;

charas or any preparation or admixture thereof, five tolas weight;

And the sale of any such quantity as is herein allowed shall be deemed to be a retail-sale within the meaning of this Act.

Restriction of sale of gánja and bháng.

20. No cultivator of the plants producing gánja or bháng shall sell any gánja or bháng to any one other than (*a*) a person licensed under section 15 to sell the same, or (*b*) a person duly authorized to purchase the same by pass or license from the Collector.

IV.—Duties.

Rate of duty to be levied on English spirits.

21. A duty shall be levied on spirits manufactured at distilleries worked according to the English method, at the rate of three rupees the imperial gallon of the strength of London-proof, to be augmented or reduced in proportion to the strength of the spirit.

No spirit shall be removed from any such distillery or the warehouses connected therewith, upon which the aforesaid duty has not been paid, or for the duty chargeable on which a bond has not been executed as hereinafter provided.

For all spirits removed upon payment of duty or under bond, passes shall be issued by the Collector, which shall specify

(*a*) the quantity and strength of the spirit;

(*b*) the place of its destination;

(*c*) the person to whom it is consigned, and

(*d*) whether the duty has been paid or secured by bond.

Nothing in the former part of this section applies to British Burma.

Spirits from foreign territory subject to duty.

22. Spirituous liquors manufactured at any place in India beyond the limits of British India, shall, on passing such limits subject to this Act, be charged with the duty prescribed for proof-spirits in section 21:

and any person found in possession of any such liquors, without a pass from the Collector certifying the payment of such duty, shall forfeit for every such offence a sum not exceeding two hundred rupees; and the liquors, together with the vessels containing the same, and the animals and conveyances used in carrying them, shall be liable to confiscation.

23. A duty shall be levied on spirits manufactured in distilleries established under section 7 at such rate as the Chief Revenue Authority, with the sanction of the Local Government, may from time to time prescribe.

Duty on country-spirits manufactured at distilleries established by Collector.

24. Whenever a license for the retail-sale of country-spirits, tárí, pachwáí or intoxicating drugs, is granted under this Act, the Collector may demand, in consideration of the privilege granted, such tax or duty, or a tax or duty adjusted on such principles, as may from time to time be fixed by the Chief Revenue Authority.

Duty on retail-sale of country-spirits, &c.

Such tax or duty shall be specified in the license, and shall be payable at such periods as the said Authority may direct.

The Collector may grant special licenses for the sale of unfermented tárí only, at those periods of the year when the fresh juice is in request: fees may be demanded for such special licenses at a rate for each license to be fixed from time to time by the Chief Revenue Authority; and the vendors shall not be subject to any other tax or duty in respect of such sale.

V.—Farm of Duties.

25. The Collector may, with the sanction of the Chief Revenue Authority, let in farm, for any period not exceeding five years, the duties leviable on the retail-sale of spirituous or fermented liquors, or intoxicating drugs, or any description of such liquors or drugs in any district or division of a district.

Power to farm out duties.

26. The Chief Revenue Authority may prescribe rules—

Tenders for farm.

(*a*) for the invitation and acceptance of tenders for such farms,

(*b*) for the requisition of security for the due fulfilment of the engagements entered into by the farmers, and

(*c*) as to the form and conditions of the lease.

Any breach of such conditions shall render the lease liable to annulment.

27. When the duties leviable on any of the articles above enumerated are let in farm, the farmer shall be at liberty to make his own arrangements with the manufacturers and vendors within the limits of his farm;

Farmer may make arrangements with local manufacturers and vendors.

And all the fines and forfeitures hereinafter prescribed, for the unlawful manufacture, sale or possession of any such article, shall be incurred by all persons manufacturing, selling or possessing the same without license or authority from the farmer.

28. Every such farmer shall file in the Collector's office a list of all the licenses granted by him in such form as may be prescribed by the Chief Revenue Authority.

List of licenses granted by farmer to be filed.

The Collector, with the sanction of the said Chief Revenue Authority, may, before entering into engagements for any such farm, make such reservations or restrictions with respect to the grant of licenses as he thinks fit.

Restrictions as to grant of licenses.

Lease may be cancelled.

29. The Collector may, with the sanction of the Chief Revenue Authority, cancel any lease granted under this Act; or may within the period of the lease, impose any new restriction on the farmer.

Compensation to farmers in certain cases.

If a lease be cancelled for any cause other than a breach on the part of the farmer of the conditions of the lease, or if any reservation or restriction with respect to the grant of licenses be imposed within the period of the lease, the farmer shall be entitled to receive such compensation for any loss which he sustains thereby as the Chief Revenue Authority thinks fit.

Recovery of arrears of tax or duty by farmers.

30. Every farmer of excise-revenue may use the same means and processes for the recovery of any arrear of tax or duty due to him from any authorized vendor, as may be lawfully used by zamíndárs and farmers of land for the recovery of arrears of rent due to them from their under-tenants.

VI.—Licenses.

Certain licensees to execute counterpart and furnish security.

31. Every person taking out a license for the manufacture of country-spirits or for the retail-sale of spirituous or fermented liquors, or intoxicating drugs, shall execute a counterpart engagement in conformity with the tenor of the license, and shall give such security for the performance of his engagement or make such deposit in lieu of security, as the Collector may require.

Durations and renewal of license.

32. Unless otherwise especially authorized by the Chief Revenue Authority, licenses for retail-sale shall be granted for the term of one year, and if continued to the holders thereof, shall be formally renewed from year to year.

But every person holding a license, who may intend not to renew it, shall give notice of his intention to the Collector at least fifteen days before the year expires.

If such notice be not given, and the license be not recalled by the Collector, the license held, and engagement entered into, by every such person, shall remain in force as if the said license and engagement had been formally renewed.

Regulation of form of license.

33. The Chief Revenue Authority may regulate the form and conditions of all licenses granted under this Act.

Power to recall license.

34. The Collector may recall or cancel any license granted under this Act, if the tax or duty therein specified be not duly paid, or in case of a violation of any other condition thereof, or of the holder being convicted of a breach of the peace or any other criminal offence.

If the Collector desire to recall a license for any cause other than those above specified, he shall give fifteen days' previous notice and remit a sum equal to the tax for fifteen days, or, if notice be not given, shall make such further compensation for default of notice as the Commissioner or Chief Revenue Authority directs.

35. Any licensed retail-vendor may surrender his license on giving one month's previous notice to the Collector, and paying such fine not exceeding the amount of the license-fees for six months as the Collector may adjudge. Surrender of license.

If the Collector is satisfied that there is a sufficient reason for resigning a license, he may remit the fine so prescribed.

VII.—Powers of Officers.

36. The collection of the revenue arising from the manufacture of spirits, and the sale of spirits and spirituous and fermented liquors and intoxicating drugs, shall be ordinarily under the charge of the Collectors of Land Revenue, who shall perform the duties connected therewith under the control and direction of the Commissioners of Revenue, and of the Chief Revenue Authority. Collectors of Land Revenue to have charge of excise.

But the Local Government may appoint any other person to be Superintendent of Excise Revenue in any district or place, and any person so appointed shall exercise, in such district or place, all the powers and authority conferred by this Act on the Collector of Land Revenue; and the Collector of Land Revenue shall cease to exercise such powers and authority in such district or place during the continuance of such appointment.

37. The Local Government may also appoint a Commissioner or Commissioners for the control and direction of the officers having charge of the excise-revenue in any district or districts; and when such appointment is made the Commissioner of Excise shall exercise within such district or districts the powers and authority conferred by this Act on Commissioners of Revenue, and the Commissioners of Revenue shall cease to exercise such powers and authority in the said district or districts during the continuance of such appointment. Power to appoint Commissioners of Excise.

38. Collectors may appoint dároghas, jamadárs, peons, surveyors, gaugers and other officers, for the collection of the excise-revenue and for the prevention of smuggling, and the officers so appointed shall, in addition to their ordinary designations, be styled excise officers. Collectors may appoint excise officers.

39. In districts where there are tahsíldárs and other local officers for the collection of the land-revenue, the office of excise dárogha may be united with that of tahsíldár, or any of such local officers, and the said officers, together with the officers subordinate to them, shall be deemed to be excise officers within the meaning of this Act. Tahsíldárs may be excise dároghas.

40. The Chief Revenue Authority may regulate the mode in which tárí shall be supplied to licensed vendors of the same; and may frame rules for the grant of licenses or passes to persons purchasing, transporting, or storing gánja, bháng, or charas for the supply of the licensed vendors of those drugs. Power to regulate supply of tárí and intoxicating drugs to licensed vendors.

Such Authority may also place the cultivation, preparation, and store of

such drugs under such supervision as may be deemed necessary to secure the duty leviable thereon.

Recovery of arrears of tax or duty.

41. The Collector may recover any arrear of tax or duty due on account of any license granted under this Act,

or any arrear due from any farmer of excise-revenue,

by distress and sale of the moveable property of the person from whom the arrear is due or of his surety, or by any other process for the time being in force for the recovery of arrears of revenue due from farmers of land or their sureties.

Power of excise officers to inspect shops.

42. Any excise officer may enter and inspect at any time by day or by night the shop or premises in which any licensed manufacturer or retail-vendor carries on the manufacture of country-spirits, or the sale of spirituous or fermented liquors, or intoxicating drugs.

And to arrest persons carrying spirits, &c., liable to confiscation.

43. Any excise officer may stop and detain any person carrying any spirituous or fermented liquors or intoxicating drugs liable to confiscation under this Act;

and may seize the liquors or drugs with the vessels, packages or coverings in which they are contained, and the animals and conveyances used in carrying them;

and may also arrest the person in whose possession such liquors or drugs are found.

And to arrest unlicensed distillers, &c.

44. Any excise officer above the rank of a jamadár of peons may arrest any person having in his possession an unlicensed still, or any spirituous or fermented liquors, or intoxicating drugs, liable to confiscation under this Act, or engaged in the unlawful sale of spirituous or fermented liquors, or intoxicating drugs,

And to seize stills.

and may seize such still with the materials for working it, and all such liquors and drugs.

And to search on information of illicit manufacture or possession.

45. Whenever any excise officer above the rank of a jamadár of peons has reason to believe, from information given by any person (which information shall be taken down in writing) that spirits are unlawfully manufactured, or that any spirituous or fermented liquors, or intoxicating drugs, liable to confiscation under this Act, are kept or concealed in any house, boat or other place,

such officer may, between sunrise and sunset (but always in the presence of an officer of Police not being under the grade of a jamadár), enter into any such house, boat or place,

and in case of resistance may break open any door, and force and remove any other obstacle to such entry;

and may seize and carry away all stills and materials used in the manufacture of such spirits and all such liquors and drugs;

and may also arrest the occupier of the house, boat or place with all other persons concerned in the manufacture of such spirits, or in the keeping and concealing of such liquors or drugs.

46.[a] The powers of seizure, search and arrest, given to excise officers by the three last preceding sections, may, in regard to the seizure and search for contraband opium and the arrest of persons found in possession thereof, be exercised also by the officers of the Police, Customs and Revenue Departments according to their respective grades.

Police, customs and revenue officers may exercise powers of excise officers.

And the Local Government may confer on the officers of those departments, or of any of them, like powers with respect to the seizure of, and search for, spirituous and fermented liquors and intoxicating drugs of every description, and the arrest of persons found in possession thereof.

All such officers, when so empowered, shall be deemed to be excise officers within the meaning of this Act.

47. Whenever an excise officer arrests any person,

Excise officer to report arrests, &c.,

or seizes any still, or any liquors or drugs liable to confiscation under this Act,

or enters any house, boat or place for the purpose of searching for any such illicit articles,

he shall, within twenty-four hours thereafter, make a full report of all the particulars of such arrest or seizure, or search, to his official superior, and, unless acting under the warrant of the Collector, shall carry the person arrested, or the illicit article seized, with all convenient despatch to the Magistrate for trial or adjudication.

and to take person arrested to Magistrate.

48. The Collector may issue his warrant for the arrest of any person whom he has reason to believe, either from information in writing, or from the proceedings in any other case, to be engaged in the unlawful sale of spirituous or fermented liquors or intoxicating drugs, or to have in his possession any such liquors or drugs liable to confiscation under this Act.

Collector may issue warrant of arrest in certain cases.

49. The Collector may issue his warrant for the search of any house, boat or place, in which, upon any of the grounds mentioned in the last preceding section, he has reason to believe that spirits are unlawfully manufactured, or that spirituous or fermented liquors or intoxicating drugs, liable to confiscation under this Act, are kept or concealed.

Collector may issue search-warrant.

Such warrant may be executed by any officer above the rank of a jamadár of peons, at the time and in the manner prescribed in section 45.

Whenever the Collector thinks that the search should be made between sunset and sunrise on any particular day, he shall issue a warrant specially authorising the search to be so made. Such warrant may be executed by any

Special warrant authorising search between

[a] Repealed, so far as it relates to opium, by Act No. XXIII of 1876.

sunset and sunrise.

officer above the rank of a jamadár of peons, in the manner prescribed in section 45, and shall cease to be in force at sunrise on the day next following.

Procedure after arrest or seizure.

50. Whenever any person is arrested, or any articles are seized under the warrant of a Collector, the Collector, after such inquiry as he thinks necessary, shall send the person arrested or the articles seized to the Magistrate, or shall order the immediate discharge of such person or the release of such articles.

Police to assist excise officers.

51. All Police officers are required to aid the excise officers in the due execution of this Act, upon notice given or request made by such officers.

VIII.—Penalties.

For constructing or working a distillery without license.

52. Whoever constructs or works a distillery after the English method, without a license from the Collector, shall for every such offence be punished with fine not exceeding one thousand rupees;

and all spirits manufactured at any such distillery, and all materials and implements collected for the purpose of such manufacture, shall be liable to confiscation.

For non-observance of rules prescribed by Chief Revenue Authority.

53. Every proprietor or manager of a licensed distillery constructed and worked after the English method, who omits to furnish any notice or any statement or list required by the rules prescribed by the Chief Revenue Authority under section 6, or wilfully does anything in contravention of the said rules, shall for every such offence be punished with fine not exceeding two hundred rupees;

and if any such offence be committed a second time with respect to the same distillery, the Collector may withdraw the license granted for the working of such distillery.

For removing spirituous liquors without payment of duty.

54. Whoever removes or attempts to remove, from any licensed distillery constructed and worked after the English method, any spirituous liquors upon which the duty has not been paid, or for the duty on which a bond has not been executed, or any spirituous liquors for which the Collector has not issued a pass, shall for every such offence be punished with fine not exceeding one thousand rupees;

and the liquors, together with the vessels containing the same, and the animals and conveyances used in carrying them, shall be liable to confiscation.

If it appear to the Collector that the offence was committed with the consent or knowledge of the proprietor or manager, the Collector may withdraw the license granted for the construction and working of the distillery from which such liquors have been removed or attempted to be removed.

For irregular re-land of

55. Whoever re-lands or attempts to re-land, any spirituous liquors shipped for exportation, without a special pass from the Collector of Revenue

at the place of exportation, shall for every such offence be punished with fine not exceeding five hundred rupees; spirituous liquors.

and the liquors, together with the casks and vessels containing the same, and the carts, boats and animals employed in carrying them, shall be liable to confiscation.

56. Whoever constructs or works a brewery, or manufactures malt-liquor, without a license, shall for every such offence be punished with fine not exceeding five hundred rupees. For working brewery without license.

57. Every person licensed to manufacture country-spirits or to sell spirituous or fermented liquors or intoxicating drugs, who fails to produce his license on the demand of any excise officer, or who commits any act in breach of any of the conditions of his license not otherwise provided for in this Act, shall for every such offence be punished with fine not exceeding fifty rupees. For refusing to produce license. For breach of license.

58. Every licensed retail-vendor, who sells any larger quantity of spirituous or fermented liquors, or intoxicating drugs, than is allowed to be sold by retail by this Act, and every licensed wholesale vendor who makes a retail-sale, shall for every such offence be punished with fine not exceeding two hundred rupees: For sale in contravention of license.

Provided that nothing in this section shall be held to prohibit the grant to the same person of both wholesale and retail-licenses, subject to the provisions of this Act. Proviso.

59. Every person licensed to sell spirituous or fermented liquors, or intoxicating drugs, who permits drunkenness, riot or gaming in his shop, or permits persons of notoriously bad character to meet or remain therein, or receives any wearing apparel or other effects in barter for liquors or drugs, shall for every such offence be punished with fine not exceeding two hundred rupees. For permitting drunkenness, &c., in shop.

60. Whoever conveys or attempts to convey any country-spirits from a distillery established under section 7 without a pass, or exceeding the quantity for which a pass has been granted, For conveying country-spirits from distillery without pass, &c.

or introduces or attempts to introduce any country-spirits manufactured at another place into the limits fixed for the consumption of spirits manufactured at such distillery, without a special pass from the Collector,

shall for every such offence be punished with fine not exceeding five hundred rupees.

61. Whoever wilfully contravenes any rule prescribed by the Chief Revenue Authority for the management of a distillery established as aforesaid, otherwise than as provided for in the last preceding section, shall for every such offence be punished with fine not exceeding fifty rupees. For contravening rules prescribed by Chief Revenue Authority.

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For illicit manufacture or sale of country-spirits, &c.

62. Every person other than a licensed manufacturer who manufactures any country-spirits,

and every person other than a licensed vendor, or a person duly authorized to supply licensed vendors, who sells any spirituous or fermented liquors, or intoxicating drugs,

and every person authorized to supply licensed vendors, who sells any such liquors or drugs to any person other than a licensed vendor,

shall for every such offence be punished with fine not exceeding five hundred rupees.

Proviso.

Nothing in this section or in section 12 applies to the sale by auction of any spirituous liquors, wines or beer purchased by any person for his private use and so disposed of upon his quitting a station or after his decease.

For illegal possession of country-spirits, &c.

63. Every person, other than a licensed manufacturer or vendor, or a person duly authorized to supply licensed vendors, who has in his possession any larger quantity of country-spirits, or tárí or pachwáí, or intoxicating drugs, than may legally be sold by retail under the provisions of section 19,

or transports by land or by water, or has in his possession, any spirituous liquors made at a distillery worked according to the English method, or any imported spirituous or fermented liquors, in larger quantity than two gallons, without a pass from the Collector or other officer duly empowered in that behalf,

shall for every such offence be punished with fine not exceeding two hundred rupees;

and the liquors and drugs, together with the vessels, packages and coverings in which they are found, and the animals and conveyances used in carrying them, shall be liable to confiscation:

Proviso.

Provided, that nothing in this section extends to any spirituous liquors, wines or beer, purchased by any person for his private use and not for sale.

Exceptions as to tárí, gánja and bháng.

64. The provisions of the two last preceding sections, so far as they relate to the sale and possession of fermented liquors, do not apply to the sale and possession of tárí the produce of the date-tree, when supplied or used for the manufacture of gúr or molasses; and the provisions of the said sections relating to the sale and possession of intoxicating drugs, do not apply to the sale and possession of gánja or bháng by the cultivators of the plants which produce those drugs respectively.

Every such cultivator selling gánja or bháng in breach of the prohibition contained in section 20, shall for every such offence be punished with fine not exceeding five hundred rupees.

65, 66, 67. [*Repealed by Act No. XXIII of* 1876.]

68. Every proprietor, farmer, tahsíldár, gumáshta or other manager of land, who authorizes or connives at the manufacture of country-spirits or the sale of spirituous or fermented liquors or intoxicating drugs by any unlicensed person, shall for every such offence be punished with fine not exceeding five hundred rupees.

For conniving at illicit manufacture or sale of spirits, &c.

69. Any Police officer who, without lawful excuse, neglects or refuses to assist as aforesaid, and any dárogha or other officer in charge of a Police-station, who, on application made by an excise officer under section 45, fails to attend a search himself, or to depute a subordinate officer not being below the grade of a jamadár, shall for every such offence be punished with fine not exceeding five hundred rupees.

On Police neglecting to assist.

70. Whoever maliciously gives false information against any person as being engaged in the unlawful manufacture of spirits, or as selling or having in his possession any spirituous or fermented liquors or intoxicating drugs in contravention of this Act, and so procures that such person be arrested or that any house, boat or other place be searched, to the injury or annoyance of such person, or any other person whatsoever, shall for every such offence be punished with fine not exceeding five hundred rupees, or with imprisonment for a term not exceeding six months, or with both.

For maliciously giving false information.

Such fine or any part thereof may be paid to the person aggrieved.

71. Any excise officer who, without reasonable ground of suspicion, searches or causes to be searched any house, boat or other place,

For vexatious search or seizure.

or vexatiously and unnecessarily seizes the moveable property of any person, on the pretence of seizing or searching for any spirituous liquors or intoxicating drugs liable to confiscation under this Act,

or vexatiously and unnecessarily arrests any person,

or commits any other excess not required for the execution of his duty,

shall for every such offence be punished with fine not exceeding five hundred rupees.

Such fine, or any part thereof, may be paid to the person aggrieved.

72. Any excise officer who neglects to report the particulars of an arrest, seizure or search within twenty-four hours thereafter, or delays carrying to the Magistrate or Collector, as the case may be, any person arrested, or any illicit articles seized under this Act, shall for every such offence be punished with fine not exceeding two hundred rupees.

On excise officers for delay in reporting arrest, &c., or in carrying person arrested to Magistrate.

73. Any excise officer unlawfully releasing or conniving at the escape of any person arrested under this Act, or conniving at the manufacture of spirits or the sale of spirituous or fermented liquors or intoxicating drugs by any unlicensed person, or by any licensed person, contrary to the terms of the

For conniving at escape of persons arrested, &c.

license, or acting in a manner inconsistent with his duty, for the purpose of enabling any person to do anything whereby any of the provisions of this Act may be evaded or broken, or the excise-revenue defrauded;

and any officer invested with local jurisdiction, authorizing or conniving at the establishment of any unlicensed shop for the sale of such liquors or drugs as aforesaid in any place subject to his control,

shall for every such offence be punished with fine not exceeding five hundred rupees.

Adjudication of penalties and seizures.

74. All fines leviable for offences against this Act, and all seizures of goods liable to confiscation under this Act, shall be adjudged by the Magistrate on the information of the Collector or any excise officer:

Provided that no such information shall be necessary in any case of complaint preferred to a Magistrate under section 59, 69, 70, 71, 72 or 73.

Procedure in cases other than those of persons sent in custody by Collector or excise officer.

75. In all cases in which complaint or information is preferred to a Magistrate of offences committed against this Act, not being cases in which persons are sent in custody by a Collector or excise officer, the Magistrate shall issue a summons requiring the attendance of the person accused.

The rules contained in the Code of Criminal Procedure, for the trial of cases before a Magistrate and for appeal against orders passed by a Magistrate, shall apply to trials under this Act:

Provided that no complaint or information of an offence against this Act shall be admitted, unless it be preferred within six months after the commission of the offence to which the complaint or information refers.

Punishment on second or subsequent conviction.

76. Whenever any person is convicted of an offence against this Act, after having been previously convicted of a like offence,[a] he shall be liable, in addition to the penalty provided for such offence, to imprisonment for a term not exceeding six months.

A like punishment of imprisonment not exceeding six months shall be incurred, in addition to the punishment which may be inflicted for a first offence, upon every subsequent conviction after the second.

Confinement in civil jail.

77. Every person imprisoned for an offence under section 59, 69, 70, 71, 72 or 73, shall be confined in the criminal jail, and every person imprisoned for an offence under any other section shall be confined in the civil jail.

Disposal of confiscated goods.

78. All things confiscated under this Act shall be disposed of by the Collector by public sale.

Disposal of fines, &c., as rewards.

79. One-half of all fines levied from persons convicted of the unlawful manufacture of spirits, or of the unlawful sale or possession of spirituous or fermented liquors or intoxicating drugs, and one-half of the proceeds from

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[a] See *Panjáb Record*, May 1872, *Criminal Judgments*, p. 11.

sale of all confiscated articles, shall, upon adjudication of the case, be awarded to the officer or officers who apprehended the offender.

The other half of such fines and forfeitures, and the other half of the proceeds of sale, shall be given to the informer.

If in any case the fine or forfeiture is not realized, the Chief Revenue Authority may grant such reasonable reward, not exceeding two hundred rupees, as may seem fit; and such Authority may direct by general order what classes of excise officers shall receive rewards, and what classes shall have no title to share therein.

Rewards where no fine is realized.

80. All fines levied under this Act, the disposal of which is not specially provided for, shall belong to Government.

Fines undisposed of to belong to Government.

But the Chief Revenue Authority may appropriate any portion thereof, not exceeding one-half, for rewarding informers, or for compensating persons subjected to annoyance or injury by any proceedings under this Act.

Special rewards to informers.

IX.—Military Cantonments.

81. Within the limits of any military cantonment, and within such distance from those limits as the Local Government in any case prescribes, no licenses for the manufacture of spirits, or for the sale of spirituous and fermented liquors, shall be granted, nor shall the duties leviable upon such spirits and liquors be let in farm, unless with the knowledge and consent of the commanding officer;

Rules respecting manufacture and sale of spirits, &c., in military cantonments.

and upon his requisition any license which has been granted, either by the Collector or by a farmer, within such distance or limits, shall be immediately withdrawn.

82. In all other respects, the foregoing provisions of this Act shall have effect within such limits or distance:

Mode of making arrest or search within military cantonments.

Provided that, when arrest or search is to be made within the limits of any cantonment, the Collector or other officer authorized under this Act to make arrest or search shall, whenever it may be practicable, give previous notice to the commanding officer, and in all other cases shall report the arrest or search to such commanding officer with as little delay as possible:

Provided also that nothing herein contained shall affect the provisions of Act No. XXII of 1864 *(to make provision for the administration of Military Cantonments)*.

X.—Miscellaneous.

83. A drawback of the duty levied under Part IV of this Act on spirits manufactured after the English method, and exported by sea to Aden or any port not situate in British India, shall be allowed by the Collector of Customs at the port of exportation:

Drawback on exportation.

Provided that the exportation be made within one year from the date of the payment of duty under this Act, and that the spirits, when brought to the Custom-house, be accompanied by the pass in which such payment is certified.

The amount of drawback to be allowed upon spirits for which duty has been paid shall be regulated according to the strength and quantity of the said spirits, as ascertained by such proof and gauge.

The quantity of spirits for which credit is to be given in the settlement of any bond, shall be determined in the same manner.

Drawback when not allowed

84. No drawback shall be allowed on spirits exported to any port in British India except Aden, or on spirits shipped as stores.

Recovery of sums due under bond.

85. Any sum remaining due to Government upon the settlement of a bond executed according to the provisions of this Act, may be recovered by any process for the time being in force for the recovery of arrears of revenue due from farmers of land or their sureties, or by suit on the bond in any Court of competent jurisdiction.

Appeals from orders and sentences under Act.

86. All orders passed by a Collector under this Act shall be appealable to the Commissioner in the usual manner under the rules in force relative to appeals from the orders of Collectors.

ACT No. XVII OF 1871.

Received the Governor General's assent on the 31st of March 1871.

An Act to provide for the levy of rates on land in Oudh.

WHEREAS it is expedient to provide for the levy of rates on land in Oudh to be applied to local purposes; It is hereby enacted as follows:— Preamble.

1. This Act may be cited as 'The Oudh Local Rates Act:' Short title.

It extends only to the territories under the administration of the Chief Commissioner of Oudh. Local extent.

2. In this Act— Interpretation-clause.

'Land' means land assessed to the land-revenue, and includes land whereof the land-revenue has been wholly or in part released, compounded for, redeemed or assigned: 'Land.'

'Landholder' means the person in receipt of the rent of any land, and responsible for the payment of the land-revenue, if any, assessed on the estate. It also includes a muáfídár or other person holding land, the land-revenue of which has been wholly or in part released, compounded for, redeemed or assigned: 'Landholder.'

'Estate' means all or any part of a village separately assessed to the land-revenue, or separately exempted from payment thereof; and 'Estate.'

'Annual value' means— 'Annual value.'

(1) where the settlement of the land-revenue is liable to periodical revision, —double the amount of the land-revenue assessed on an estate;

(2) where such settlement is not liable to periodical revision, or where the land-revenue or a portion thereof has been released, compounded for, redeemed or assigned,—double the amount which, if the settlement were liable to periodical revision, would, but for such non-liability, release, composition, redemption or assignment, have been assessed as land-revenue on the estate.

3. The Chief Commissioner may impose on every estate a rate not exceeding one and a quarter per cent. on its annual value. Such rate shall be payable annually by the landholder, independently of, and in addition to, any land-revenue for the time being assessed on the estate and any local cesses now leviable therefrom. Rates assessable.

4. All sums due on account of any rate imposed under this Act, shall be recoverable as if they were arrears of land-revenue due in respect of the land on account of which the rate is payable. Recovery of rates.

5. Every landholder may recover from his co-sharers or pattídárs, if any, a share of the rate bearing the same proportion to the whole rate that the annual value of the share of such co-sharer or pattídár, recorded at the time of the settlement, bears to the annual value of the whole estate. Power to recover share of rate from co-sharers or pattídars.

Power to recover share of rate from under-proprietor, permanent lessee or occupancy-tenant.

6. Whenever the rate is charged on a landholder on account of land in the use or occupation of an under-proprietor or permanent lessee, or of a tenant with right of occupancy, whose rent has been fixed or recorded by a competent Court, such landholder may realize from such under-proprietor, lessee or tenant a share of the rate bearing the same proportion to the whole rate that the share of such under-proprietor, lessee or tenant in the annual value of the land on which the rate is charged, bears to half the annual value of such land.

Jurisdiction over suits as to rates.

7. Suits for the recovery from co-sharers, under-proprietors, permanent lessees or tenants as aforesaid of any sum on account of any rate imposed under this Act, and all suits on account of illegal exaction of such rate, or for the settlement of accounts, shall be cognizable by the Courts of Revenue in Oudh,

and the provisions of the Oudh Rent Act (No. XIX of 1868),[a] chapters VII, VIII and IX, as to similar classes of suits, shall apply to the suits mentioned in the former part of this section.

Appeal to Commissioner.

8. An appeal shall lie to the Commissioner from the order of any person authorized, under the power hereinafter conferred, to make assessments, in any matter connected with the assessment of any sum leviable under this Act: provided that such appeal be presented within thirty days from the date of the order.

The decision of the Commissioner on such appeal shall be final; but all such decisions may be reviewed by the Chief Commissioner.

General fund.

9. The proceeds of all rates levied under this Act shall be carried to the credit of a general provincial fund.

Assignments for local purposes.

10. The Chief Commissioner shall, from time to time, assign from such fund an amount to be applied in each district for expenditure on all or any of the following purposes—

(1) the construction, repair and maintenance of roads and communications;

(2) the construction and repair of school-houses, the maintenance and inspection of schools, the establishment of scholarships, and the training of teachers;

(3) the construction and repair of hospitals, dispensaries, lunatic asylums, markets, wells and tanks, the payment of all charges connected with the purposes for which such buildings or works have been constructed, and any other local works and undertakings of public utility likely to promote the public health, comfort or convenience.

Such assignment shall not be less than the total sum assessed under this Act in such district in the year in which the assignment was made.

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[a] *v. supra*, p. 67.

11. Any portion of such assignment remaining unexpended at the end of the financial year in which the assignment was made may, at the discretion of the Chief Commissioner, be re-assigned for expenditure in the same district, or may be applied for the benefit of the Province of Oudh in such manner as the Chief Commissioner from time to time directs.

Unexpended portion of assignment.

12. Accounts of the receipts in respect of all rates levied under this Act, and of the receipts and expenditure of the assignment made under section 10, shall be kept in each district.

Accounts of receipts.

Such accounts shall, at all reasonable times, be open to the inspection of the local committee hereinafter mentioned.

An abstract of such accounts shall be prepared annually in English and in the vernacular language of the district, and shall be open, at all reasonable times, to public inspection at suitable places within the district without the payment of any fee.

An abstract of such accounts shall also be published annually in the local official Gazette.

13. The Chief Commissioner shall appoint, in each district, a committee, consisting of not less than six persons, for the purpose of assisting in determining how the amount mentioned in section 10 shall be applied, and in the supervision and control of the expenditure of such amount:

Appointment of committees.

Provided that not less than one-half of the members of such committee shall be persons not in the service of Government, and owning or occupying land in the district, or residing therein.

The Chief Commissioner shall, from time to time, prescribe the manner in which the members of such committee shall be appointed or removed, and shall define the functions and authority of such Committee.

14. The Chief Commissioner may, by notification, from time to time,

Power to make supplementary rules.

(*a*) prescribe by what instalments and at what times any rate imposed under this Act shall be payable, and by whom it shall be assessed, collected and paid:

(*b*) make rules consistent with this Act for the guidance of officers in matters connected with its enforcement; and

(*c*) exempt any portion of the territories under his administration from the operation of this Act.

Every notification under this section shall be published in the local official Gazette.

ACT No. XXII OF 1871.

Received the Governor General's assent on the 1st of August 1871.

An Act to authorise the extension of the Chaukídárí Act to places where there is no Jamadár of Police.

Preamble.

WHEREAS by Act No. XX of 1856 (*to make better provision for the appointment and maintenance of Police Chaukídárs in Cities, Towns, Stations, Suburbs and Bázárs in the Presidency of Fort William in Bengal*),[a] section two, the Local Government is restrained from extending that Act to any city, town, suburb or bázár, unless there be therein (or in some other city, town, suburb or bázár with which the same may be united as thereinafter provided) a Police-station under an officer of a grade not below that of a jamadár; and whereas it is expedient to remove such restriction and in other respects to amend the said Act; It is hereby enacted as follows:—

Amendment of section 2, Act No. XX of 1856.

1. Instead of the second section of the said Act, the following shall be read:—

[*v. supra*, p. 31.]

Amendment of section 11.

2. Instead of section eleven of the said Act, the following shall be read:—

[*v. supra*, p. 32.]

Amendment of section 38.

3. Instead of section thirty-eight of the said Act, the following shall be read:—

[*v. supra*, p. 37.]

Amendment of section 41.

4. In the forty-first section of the said Act, instead of the words "On the 20th of each calendar month," there shall be read the words "On the tenth day after the date fixed for the payment of instalments of the tax."

Amendment of Appendices A and C.

5. In Appendix A, at the end of the first paragraph, the words "and the aggregate amount assessed shall not exceed the average rate of two annas per mensem for each house, shop or building in the district," shall be omitted.

In Appendix C, the words "the first payment on the tenth day of the month next succeeding the date of this notification, and every subsequent payment on or before the tenth day of each succeeding month," shall be omitted.

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[a] *v. supra*, p. 30.

THE OUDH CIVIL COURTS ACT, 1871.

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ACT No. XXXII OF 1871.

Received the Governor General's assent on the 30th of October 1871.

An Act to consolidate and amend the law relating to the Civil Courts in Oudh.

Preamble. WHEREAS it is expedient to consolidate and amend the law relating to the Civil Courts in Oudh; It is hereby enacted as follows:—

CHAPTER I.—PRELIMINARY.

Short title. 1. This Act may be called "The Oudh Civil Courts Act, 1871:"

Extent of Act. It applies to all civil Courts in Oudh, except Small Cause Courts.

2. In this Act—

'Division' means the local jurisdiction of the Court of the Commissioner. 'Division' defined.

3. The Acts and orders mentioned in the schedule hereto annexed are repealed to the extent specified in the third column of such schedule, except as to the suits, appeals, applications or proceedings mentioned in section 1.[a] Repeal of enactments.

CHAPTER II.—Constitution of Civil Courts.

4. There shall be five grades of Courts in Oudh, namely:— Grades of Courts in Oudh.

(1) the Court of the Tahsíldár;

(2) the Court of the Assistant Commissioner or Extra Assistant Commissioner;

(3) the Court of the Deputy Commissioner or of the Civil Judge of Lucknow;

(4) the Court of the Commissioner;

(5) the Court of the Judicial Commissioner.

5. The Governor General in Council shall fix, and may from time to time vary, the number of Courts of each grade to be established under this Act. Power to fix number of Courts.

6. The Judicial Commissioner, Commissioners, Deputy Commissioners, Civil Judge of Lucknow and Assistant Commissioners shall be appointed by the Governor General in Council. Appointment of officers.

The Extra Assistant Commissioners and Tahsíldárs shall be appointed by the Chief Commissioner.

7. All existing Courts corresponding to the grades mentioned in section 4 and the presiding officers thereof shall be deemed to have been respectively established and appointed under this Act. Confirmation of existing Courts and officers.

8. The general control over all the Courts of the first and second grades in any district is vested in the Deputy Commissioner, and the like control over the said Courts and of the Courts of the third grade in any division is vested in the Commissioner, subject to the superintendence of the Judicial Commissioner. Control over subordinate Courts.

9. Every Court under this Act shall—

(1) be a "Civil Court" within the meaning of the Code of Civil Procedure; Courts to be civil Courts under Civil Procedure Code.

(2) use a seal of such form and dimensions as are for the time being prescribed by the Chief Commissioner; and Seal to be used.

(3) be held at such place or places as may be from time to time directed by the Chief Commissioner. Place for holding Court.

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[a] *i. e.*, suits, &c., instituted previous to the 30th October 1871.

CHAPTER III.—JURISDICTION.

Power to fix local jurisdiction of Courts.

10. The Chief Commissioner shall, with the previous sanction of the Governor General in Council, fix, and may from time to time vary, the local limits of the jurisdiction of any civil Court under this Act.

Existing local jurisdiction preserved.

The present local limits of the jurisdiction of every civil Court shall be deemed to be fixed under this Act.

Original Jurisdiction.

Extent of ordinary jurisdiction.

11. The Courts mentioned in the first column of the subjoined table shall ordinarily have jurisdiction in the adjudication of suits of every description arising within their local jurisdiction to the extent specified in the second column thereof: Provided that no suit cognizable by a Court of Small Causes shall, within the local limits of the jurisdiction of any such Court, be heard or determined by any other Court.

(1.) The Tahsíldár.	(1.) When the amount or value of the subject-matter of the suit does not exceed one hundred rupees.
(2.) The Assistant Commissioner or Extra Assistant Commissioner.	(2.) When such amount or value does not exceed five hundred rupees.
(3.) The Deputy Commissioner or the Civil Judge of Lucknow.	(3.) Whatever be the amount or value of the subject-matter of the suit.

Power to extend jurisdiction of certain officers.

But the Chief Commissioner may invest any Tahsíldár with power to try suits of which the amount or value of the subject-matter does not exceed five hundred rupees, and may also empower any Assistant Commissioner or Extra Assistant Commissioner to try suits of which the amount or value of the subject-matter does not exceed five thousand rupees.

Orders conferring extended jurisdiction to have force of law.

All orders of the Chief Commissioner investing any Tahsíldár, Assistant Commissioner or Extra Assistant Commissioner with such extended jurisdiction shall be duly notified in the local official Gazette, and shall thereupon have the same force and effect as if the said jurisdiction had been expressly conferred by this Act upon the Courts presided over by the officers so invested.

Distribution of business by Deputy Commissioner.

12. The Court of the Deputy Commissioner shall be deemed to be the principal civil Court of original jurisdiction in any district, and he may direct the business in the Courts of the first and second grades to be distributed among such Courts in such way as he shall think fit: Provided that no Court shall try any suit in which the amount or value of the claim shall exceed its proper jurisdiction.

Power of Commissioner to withdraw suits from subordinate Courts.

13. The Commissioner may withdraw any suit instituted in any Court subordinate to him, and try such suit himself, or refer it for trial to any other such Court competent in respect of the value or amount of the suit to try the same.

14. Section twelve of Act VIII of 1859 shall be read, as regards the trial of suits in Oudh, subject to the following modification, namely:— **Modification of section 12, Act VIII of 1859.**

(1.) When the suit is for immoveable property situate within the local jurisdiction of different district Courts included in the same division, the application for authority to proceed with the suit shall be made to the Commissioner of such division.

(2.) When the said Courts belong to different divisions, the application shall be made to the Commissioner of the division in which the district wherein the suit was instituted is included.

Appellate Jurisdiction.

15. (1.)—Appeals from the decrees and orders in original suits and proceedings of the Courts of the first and second grades shall, when such appeals are allowed by law,[a] ordinarily lie to the Deputy Commissioner. But where the amount or value of the subject-matter of any such suit or proceeding exceeds one thousand rupees, the appeal shall lie to the Commissioner. **Appeals.**

(2.)—Appeals from such decrees and orders of the Court of the Deputy Commissioner, when such appeals are allowed by law, shall lie to the Commissioner.

(3.)—An appeal from any such decree or order passed by the Commissioner shall, when such appeal is allowed by law, lie to the Judicial Commissioner, whose Court shall be deemed to be the highest Court of Appeal.

16. The Commissioner may withdraw any appeal instituted in the Court of any Deputy Commissioner subordinate to him, and try the appeal himself, or refer it for trial to the Court of any other Deputy Commissioner in his division. **Power of Commissioner to withdraw appeals.**

17. If the decision of a Deputy Commissioner or a Commissioner, passed in appeal, reverse or modify the decision of the Court of original jurisdiction, the Judicial Commissioner may receive a second appeal, if, on a perusal of the grounds of appeal and of copies of the judgments of the subordinate Courts, a further consideration of the case appears to him to be requisite for the ends of justice. **When Judicial Commissioner may receive second appeal.**

18. If the Court of first appeal confirms the decision of the Court of first instance, such decision shall be final: **Decision of first appellate Court when final.**

Provided that where, in the trial of any appeal, such appellate Court entertains any doubt in regard to a question of law or usage having the force of law, or as to the construction of a document affecting the merits of the decision, the Court may, either of its own motion or on the application of any of the parties to the case, draw up a statement of the case, and refer it, with the Court's own opinion, for the decision of the Judicial Commissioner. **Reference to Judicial Commissioner.**

[a] See Act No. XXIII of 1861, s. 23.

Procedure on such reference.

19. The Judicial Commissioner, after hearing and considering the case so referred, shall send a copy of his judgment to the Court by which the reference was made, and such Court shall, on the receipt of the copy, proceed to dispose of the case in conformity with the decision of the Judicial Commissioner.

Costs of reference.

20. Costs, if any, consequent on the reference of the case to the Judicial Commissioner, shall be costs in the appeal out of which the reference arose.

Time for presenting appeal to Commissioner.

21. The memorandum of appeal must, when the appeal lies to the Commissioner, be presented within six weeks, the period being reckoned from and exclusive of the day on which the decision or order appealed against was passed, and also exclusive of such time as may be requisite for obtaining a copy of such decision or order; and, in all other cases, within the periods fixed by the law of limitation relating to the presentation of appeals for the time being in force.

In other cases.

Appointment of Extra Judicial Commissioner.

22. Whenever the state of business in the Court of the Judicial Commissioner is such that he cannot dispose of the same with reasonable dispatch, he may cause a list of the appeals pending in his Court to be prepared and sent to the Chief Commissioner, and such Chief Commissioner, with the sanction of the Governor General in Council, may, if he think fit, appoint a Commissioner to be an Additional Judicial Commissioner for the disposal of such appeals or any of them.

Reference to High Court, North-Western Provinces.

23. When the Judicial Commissioner entertains any doubt as to the decision to be passed on any appeal under this Act, he may make a reference to the High Court of the North-Western Provinces of the Presidency of Bengal, and shall transmit the record of the case referred, and all the proceedings connected therewith, to the said Court.

Procedure of High Court thereupon.

24. The High Court shall, with as little delay as possible, proceed to try the case referred as if it were an appeal instituted in such Court, and shall send a copy of its judgment to the Judicial Commissioner, who shall dispose of the case in conformity therewith.

Section 20 to apply to reference to High Court.

25. The provisions of section 20, as to the adjustment of costs, shall apply to cases referred under the last preceding section.

Special Jurisdiction.

Power to invest settlement officers with powers of civil Courts in certain cases.

26. In any district in which a settlement of the land-revenue is in progress, the Chief Commissioner, with the sanction of the Governor General in Council, may invest any officer making or controlling such settlement with all or any of the powers of civil Courts of the first, second, third or fourth grades, for the purpose of trying suits and appeals relating to land assessed to revenue, or the rent, revenue or produce of such land, arising in such district.

Any district in which such officers have been so invested shall, for the purposes of this section, be deemed to be under settlement until such time as the Governor General in Council shall otherwise direct; and the jurisdiction of the ordinary civil Courts of those grades shall be excluded in respect of such suits and appeals during that period:

Exclusion of jurisdiction of civil Courts in district under settlement.

Provided that the Chief Commissioner may direct that any cases pending before the settlement officers invested with the powers mentioned in the former part of this section shall be transferred to the ordinary civil Courts of the district if the state of business in his opinion requires it.

Power to transfer cases from settlement officers, to civil Courts.

27. If, before any officer so invested, a suit relating both to such land and other property be instituted, the said officer shall make a reference regarding the disposal of such suit to the Commissioner of the division in which the district wherein the suit was instituted is included, who shall determine by what Court the suit shall be tried.

Trial of suit relating to land and to other property.

28. No suit relating to any tenure which shall be cognizable by the Court of any settlement officer under this Act, shall be barred under the law for the time being in force relating to the limitation of suits, if the cause of action arose on or after the thirteenth day of February 1844.[a]

Limitation-law not to apply to certain suits relating to tenures.

29. When a mortgagee shall, under or by virtue of a mortgage executed before the said day, have obtained possession of any land comprised in his mortgage, the mortgagor or any person claiming through him shall not bring a suit to redeem the mortgage of such land, any subsequent acknowledgment of the title or right to redeem of the mortgagor, or of any person claiming through him, notwithstanding.

Bar of redemption-suits when mortgage executed before 13th February 1844.

30. Nothing herein contained shall be taken to bar a suit for redemption in any case where, by the instrument of mortgage, a term was fixed within which the property comprised therein might be redeemed, and such term had not expired before the thirteenth day of February 1856: Provided that, if any such term had expired before that day, the suit shall be barred, whatever may have been the date on which the instrument was executed.

Redemption-suits not barred where fixed term for redemption had not expired before 13th February 1856.

CHAPTER IV.—MISCELLANEOUS.

31. [*Repealed by Act No. XVIII of* 1876.]

32. No presiding officer of any Court having jurisdiction under this Act shall try any suit or appeal in which he is a party or personally interested, or any appeal against a decree or order passed by himself; or shall adjudicate upon any proceeding connected with, or arising out of, such suit or appeal.

Presiding officer of Court not to try certain suits.

When any such suit, appeal or proceeding comes before any such presiding officer, he shall forthwith transmit the record of the case to the Court to which

Disposal of such suits.

[a] See *infra*, Act No. XVIII of 1876, s. 17.

he is immediately subordinate, with a report of the circumstances attending the reference.

The superior Court shall thereupon dispose of the case in the manner prescribed by section six, Act VIII of 1859.

Power to appoint Additional Judicial Commissioner.

In the event of an appeal being preferred to a Judicial Commissioner from a judgment or order passed by him in any other capacity, or in which he has any personal interest, he shall report the fact to the Chief Commissioner, who, with the sanction of the Governor General in Council, shall appoint a Commissioner to be an Additional Judicial Commissioner for the disposal of the case.

Suspension and removal of presiding officers.

33. The presiding officer of any Court under this Act may, for any misconduct, be suspended or removed by the Governor General in Council.

The presiding officer of any Court of the second, third or fourth grade may, for any misconduct, be suspended by the Chief Commissioner, but shall not be removed without the sanction of the Governor General in Council.

The presiding officer of any Court of the first grade may, for any misconduct, be suspended or removed by the Chief Commissioner.

Appointment of ministerial officers of lower Courts.

34. The ministerial officers of the Courts of the first and second grades shall be appointed by the Deputy Commissioner within whose local jurisdiction such Courts are situate.

Fining, suspension and removal of ministerial officers.

35. Every Court of the first and second grades may fine, in an amount not exceeding one month's salary, any of its ministerial officers who is guilty of any misconduct or neglect in the performance of the duties of his office. The Deputy Commissioner, subject only to the general control of the Commissioner, may on appeal or otherwise reverse or modify every such order, and may of his own motion remove, suspend from office, or fine up to the amount of one month's salary, any ministerial officer of any Court subordinate to him.

Appointment of ministerial officers of superior Courts.

36. The Civil Judge of Lucknow, Deputy Commissioner, Commissioner and Judicial Commissioner shall appoint the ministerial officers of their respective Courts; provided that the appointment by the Civil Judge of Lucknow, or a Deputy Commissioner or Commissioner, of a ministerial officer whose monthly salary exceeds fifty rupees, shall be subject to the sanction of the Judicial Commissioner.

Removal, suspension and fining of such officers.

37. The Civil Judge of Lucknow, Deputy Commissioner, Commissioner and Judicial Commissioner may remove or suspend the ministerial officers of their respective Courts, or fine them in an amount not exceeding one month's salary; but every such removal or suspension made by a Commissioner, Deputy Commissioner or the Civil Judge of Lucknow shall be subject to the general control of the Judicial Commissioner.

Recovery of fines.

38. Any fine imposed under this chapter shall, if the order imposing it so directs, be recovered from the offender's salary.

39. Nothing in this chapter shall be deemed to bar the general control of the Chief Commissioner over all appointments and removals of ministerial officers under this Act.

Saving of general control of Chief Commissioner.

40. Act No. XIX of 1868 shall be construed as if, for "Financial Commissioner" in sections 84, 93, 94 and 98, the words "Judicial Commissioner," and, in section 99, the words "Chief Commissioner," were substituted.

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Act XIV of 1865 ...	An Act to define the jurisdiction of the Courts of Civil Judicature in the Central Provinces.	The whole, so far as it relates to Oudh.
Act XVI of 1865 ...	An Act to remove doubts as to the jurisdiction of the Revenue Courts in the Province of Oudh in suits relating to land, and to enlarge the period of limitation in such suits.	The whole.
Act XIII of 1866 ...	An Act to exempt certain suits in Oudh from the operation of the rules of limitation in force in that Province.	The whole.
Act XXVII of 1867...	An Act to empower Deputy Commissioners in the Central Provinces, the Panjáb, Oudh and the Jhánsí Division to distribute the business in subordinate Courts.	So far as it relates to Oudh.
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Notification dated 6th August 1861.	.....	First proviso.
Notification dated 3rd April 1871, 724G.	.....	The whole.

THE NORTHERN INDIA CANAL AND DRAINAGE ACT, 1873.

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ACT No. VIII of 1873.

Received the Governor General's assent on the 11th of February 1873.

An Act to regulate Irrigation, Navigation and Drainage in Northern India.

Preamble.

Whereas, throughout the territories to which this Act extends, the Government is entitled to use and control for public purposes the water of all rivers and streams flowing in natural channels, and of all lakes and other natural collections of still water; and whereas it is expedient to amend the law relating to Irrigation, Navigation and Drainage in the said territories; It is hereby enacted as follows:—

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Short title.

1. This Act may be called "The Northern India Canal and Drainage Act, 1873":

Local extent.

It extends to the territories for the time being respectively under the government of the Lieutenant Governors of the North-Western Provinces and

the Panjáb, and under the administration of the Chief Commissioners of Oudh and the Central Provinces; and applies to all lands whether permanently settled, temporarily settled, or free from revenue;

2. [*Repealed by Act No. XII of* 1873.]

Interpretation-clause.

3. In this Act—unless there be something repugnant in the subject or context—

"Canal."

(1) "Canal" includes—

(*a*) all canals, channels and reservoirs constructed, maintained or controlled by Government for the supply or storage of water;

(*b*) all works, embankments, structures, supply and escape-channels connected with such canals, channels or reservoirs;

(*c*) all water-courses as defined in the second clause of this section;

(*d*) any part of a river, stream, lake or natural collection of water, or natural drainage-channel, to which the Local Government has applied the provisions of Part II of this Act;

"Water-course."

(2) "Water-course" means any channel which is supplied with water from a canal, but which is not maintained at the cost of Government, and all subsidiary works belonging to any such channel;

"Drainage-work."

(3) "Drainage-work" includes escape-channels from a canal, dams, weirs, embankments, sluices, groins and other works for the protection of lands from flood or from erosion, formed or maintained by the Government under the provisions of Part VII of this Act, but does not include works for the removal of sewage from towns;

"Vessel."

(4) "Vessel" includes boats, rafts, timber and other floating bodies;

"Commissioner."

(5) "Commissioner" means a Commissioner of a Division, and includes any officer appointed under this Act to exercise all or any of the powers of a Commissioner;

"Collector."

(6) "Collector" means the head revenue officer of a district, and includes a Deputy Commissioner or other officer appointed under this Act to exercise all or any of the powers of a Collector;

"Canal Officer."

(7) "Canal Officer" means an officer appointed under this Act to exercise control or jurisdiction over a canal or any part thereof;

"Superintending Canal Officer" means an officer exercising general control over a canal or portion of a canal;

"Divisional Canal Officer" means an officer exercising control over a division of a canal;

"Sub-Divisional Canal Officer" means an officer exercising control over a sub-division of a canal;

"District."

(8) "District" means a district as fixed for revenue-purposes.

4. The Local Government may from time to time declare, by notification in the official Gazette, the officers by whom, and the local limits within which, all or any of the powers or duties hereinafter conferred or imposed shall be exercised or performed.

Power to appoint officers.

All officers mentioned in section 3, clause (7), shall be respectively subject to the orders of such officers as the Local Government from time to time directs.

PART II.

Of the Application of Water for Public Purposes.

5. Whenever it appears expedient to the Local Government that the water of any river or stream flowing in a natural channel, or of any lake or other natural collection of still water, should be applied or used by the Government for the purpose of any existing or projected canal or drainage-work,

Notification to issue when water-supply is to be applied for public purposes.

the Local Government may, by notification in the official Gazette, declare that the said water will be so applied or used after a day to be named in the said notification, not being earlier than three months from the date thereof.

6. At any time after the day so named, any Canal Officer, acting under the orders of the Local Government in this behalf, may enter on any land and remove any obstructions, and may close any channels, and do any other thing necessary for such application or use of the said water.

Powers of Canal Officer.

7. As soon as is practicable after the issue of such notification, the Collector shall cause public notice to be given at convenient places, stating that the Government intends to apply or use the said water as aforesaid, and that claims for compensation in respect of the matters mentioned in section 8 may be made before him.

Notice as to claims for compensation.

8. No compensation shall be awarded for any damage caused by—

Damage for which compensation shall not be awarded.

(*a*) stoppage or diminution of percolation or floods;

(*b*) deterioration of climate or soil;

(*c*) stoppage of navigation, or of the means of drifting timber or watering cattle;

(*d*) displacement of labour.

But compensation may be awarded in respect of any of the following matters:

Matters in respect of which compensation may be awarded.

(*e*) Stoppage or diminution of supply of water through any natural channel to any defined artificial channel, whether above or under ground, in use at the date of the said notification:

(*f*) Stoppage or diminution of supply of water to any work erected for purposes of profit on any channel, whether natural or artificial, in use at the date of the said notification:

(*g*) Stoppage or diminution of supply of water through any natural channel which has been used for purposes of irrigation within the five years next before the date of the said notification:

(*h*) Damage done in respect of any right to a water-course or the use of any water to which any person is entitled under the Indian Limitation Act, 1871, Part IV:

(*i*) Any other substantial damage, not falling under any of the above clauses (*a*), (*b*), (*c*) or (*d*), and caused by the exercise of the powers conferred by this Act, which is capable of being ascertained and estimated at the time of awarding such compensation.

In determining the amount of such compensation, regard shall be had to the diminution in the market-value, at the time of awarding compensation, of the property in respect of which compensation is claimed; and where such market-value is not ascertainable, the amount shall be reckoned at twelve times the amount of the diminution of the annual nett profits of such property, caused by the exercise of the powers conferred by this Act.

No right to any such supply of water as is referred to in clause (*e*), (*f*) or (*g*) of this section, in respect of a work or channel not in use at the date of the notification, shall be acquired as against the Government, except by grant or under the Indian Limitation Act, 1871, Part IV.

And no right to any of the advantages referred to in clauses (*a*), (*b*) and (*c*) of this section shall be acquired, as against the Government, under the same Part.

Limitation of claims.

9. No claim for compensation for any such stoppage, diminution or damage shall be made after the expiration of one year from such stoppage, diminution or damage, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

Enquiry into claims and amount of compensation.

10. The Collector shall proceed to enquire into any such claim, and to determine the amount of compensation, if any, which should be given to the claimant; and sections 9 to 12 (inclusive), 14 and 15, 18 to 23 (inclusive), 26 to 40 (inclusive), 51, 57, 58 and 59 of the Land Acquisition Act, 1870, shall apply to such enquiries:—

Provided that, instead of the last clause of the said section 26, the following shall be read: "The provisions of this section and of section 8 of the Northern India Canal and Drainage Act, 1873, shall be read to every assessor in a language which he understands, before he gives his opinion as to the amount of compensation to be awarded."

Abatement of rent on interruption of water-supply.

11. Every tenant holding under an unexpired lease, or having a right of occupancy, who is in occupation of any land at the time when any stoppage or diminution of water-supply, in respect of which compensation is allowed

under section 8, takes place, may claim an abatement of the rent previously payable by him for the said land, on the ground that the interruption reduces the value of the holding.

12. If a water-supply increasing the value of such holding is afterwards restored to the said land, the rent of the tenant may be enhanced, in respect of the increased value of such land due to the restored water-supply, to an amount not exceeding that at which it stood immediately before the abatement. Enhancement of rent on restoration of water-supply.

Such enhancement shall be on account only of the restored water-supply, and shall not affect the liability of the tenant to enhancement of rent on any other grounds.

13. All sums of money payable for compensation under this Part shall become due three months after the claim for such compensation is made in respect of the stoppage, diminution or damage complained of, Compensation when due.

and simple interest at the rate of six per cent. per annum shall be allowed on any such sum remaining unpaid after the said three months, except where the non-payment of such sum is caused by the wilful neglect or refusal of the claimant to receive the same. Interest.

PART III.

Of the Construction and Maintenance of Works.

14. Any Canal Officer, or other person acting under the general or special order of a Canal Officer, Power to enter and survey, &c.

may enter upon any lands adjacent to any canal, or through which any canal is proposed to be made, and undertake surveys or levels thereon;

and dig and bore into the sub-soil;

and make and set up suitable land-marks, level-marks, and water-gauges;

and do all other acts necessary for the proper prosecution of any inquiry relating to any existing or projected canal under the charge of the said Canal Officer:

and, where otherwise such inquiry cannot be completed, such officer or other person may cut down and clear away any part of any standing crop, fence or jungle; Power to clear land.

and may also enter upon any land, building or water-course on account of which any water-rate is chargeable, for the purpose of inspecting or regulating the use of the water supplied, or of measuring the lands irrigated thereby or chargeable with a water-rate, and of doing all things necessary for the proper regulation and management of such canal: Power to inspect and regulate water-supply.

Notice of intended entry into houses.

Provided that, if such Canal Officer or person proposes to enter into any building or enclosed court or garden attached to a dwelling-house not supplied with water flowing from any canal, he shall previously give the occupier of such building, court or garden at least seven days' notice in writing of his intention to do so.

Compensation for damage caused by entry.

In every case of entry under this section, the Canal Officer shall, at the time of such entry, tender compensation for any damage which may be occasioned by any proceeding under this section; and in case of dispute as to the sufficiency of the amount so tendered, he shall forthwith refer the same for decision by the Collector, and such decision shall be final.

Power to enter for repairs and to prevent accidents.

15. In case of any accident happening or being apprehended to a canal, any Divisional Canal Officer or any person acting under his general or special orders in this behalf may enter upon any lands adjacent to such canal, and may execute all works which may be necessary for the purpose of repairing or preventing such accident.

Compensation for damage to land.

In every such case, such Canal Officer or person shall tender compensation to the proprietors or occupiers of the said lands for all damage done to the same. If such tender is not accepted, the Canal Officer shall refer the matter to the Collector, who shall proceed to award compensation for the damage as though the Local Government had directed the occupation of the lands under section 43 of the Land Acquisition Act, 1870.

Application by persons desiring to use canal-water.

16. Any persons desiring to use the water of any canal, may apply in writing to the Divisional or Sub-Divisional Canal Officer of the division or sub-division of the canal from which the water-course is to be supplied, requesting such officer to construct or improve a water-course at the cost of the applicants.

Contents of application.

The application shall state the works to be undertaken, their approximate estimated cost, or the amount which the applicants are willing to pay for the same, or whether they engage to pay the actual cost as settled by the Divisional Canal Officer, and how the payment is to be made.

Liability of applicants for cost of works.

When the assent of the Superintending Canal Officer is given to such application, all the applicants shall, after the application has been duly attested before the Collector, be jointly and severally liable for the cost of such works to the extent mentioned therein.

Recovery of amount due.

Any amount becoming due under the terms of such application, and not paid to the Divisional Canal Officer, or the person authorized by him to receive the same, on or before the date on which it becomes due, shall, on the demand of such officer, be recoverable by the Collector as if it were an arrear of land-revenue.

17. There shall be provided, at the cost of Government, suitable means of crossing canals constructed or maintained at the cost of Government, at such places as the Local Government thinks necessary for the reasonable convenience of the inhabitants of the adjacent lands.

Government to provide means of crossing canals.

On receiving a statement in writing, signed by not less than five of the owners of such lands, to the effect that suitable crossings have not been provided on any canal, the Collector shall cause inquiry to be made into the circumstances of the case, and if he thinks that the statement is established, he shall report his opinion thereon for the consideration of the Local Government, and the Local Government shall cause such measures in reference thereto to be taken as it thinks proper.

18. The Divisional Canal Officer may issue an order to the persons using any water-course to construct suitable bridges, culverts or other works for the passage of the water of such water-course across any public road, canal or drainage-channel in use before the said water-course was made, or to repair any such works.

Persons using water-course to construct works for passing water across roads, &c.

Such order shall specify a reasonable period within which such construction or repairs shall be completed;

If they fail, Canal Officer may construct,

and if, after the receipt of such order, the persons to whom it is addressed do not, within the said period, construct or repair such works to the satisfaction of the said Canal Officer, he may, with the previous approval of the Superintending Canal Officer, himself construct or repair the same;

and if the said persons do not, when so required, pay the cost of such construction or repairs as declared by the Divisional Canal Officer, the amount shall, on the demand of the Divisional Canal Officer, be recoverable from them by the Collector as if it were an arrear of land-revenue.

and recover cost.

19. If any person, jointly responsible with others for the construction or maintenance of a water-course, or jointly making use of a water-course with others, neglects or refuses to pay his share of the cost of such construction or maintenance, or to execute his share of any work necessary for such construction or maintenance, the Divisional or Sub-Divisional Canal Officer, on receiving an application in writing from any person injured by such neglect or refusal, shall serve notice on all the parties concerned that, on the expiration of a fortnight from the service, he will investigate the case; and shall, on the expiration of that period, investigate the case accordingly, and make such order thereon as to him seems fit.

Adjustment of claims between persons jointly using water-course.

Such order shall be appealable to the Commissioner, whose order thereon shall be final.

Any sum directed by such order to be paid within a specified period, may, if not paid within such period, and if the order remains in force, be recovered

Recovery of amount found due.

by the Collector, from the person directed to pay the same, as if it were an arrear of land-revenue.

Supply of water through intervening water-course.

20. Whenever application is made to a Divisional Canal Officer for a supply of water from a canal, and it appears to him expedient that such supply should be given and that it should be conveyed through some existing water-course, he shall give notice to the persons responsible for the maintenance of such water-course to show cause, on a day not less than fourteen days from the date of such notice, why the said supply should not be so conveyed; and, after making inquiry on such day, the Divisional Canal Officer shall determine whether and on what conditions the said supply shall be conveyed through such water-course.

When such officer determines that a supply of canal-water may be conveyed through any water-course as aforesaid, his decision shall, when confirmed or modified by the Superintending Canal Officer, be binding on the applicant and also on the persons responsible for the maintenance of the said water-course.

Such applicant shall not be entitled to use such water-course until he has paid the expense of any alteration of such water-course necessary in order to his being supplied through it, and also such share of the first cost of such water-course as the Divisional or Superintending Canal Officer may determine.

Such applicant shall also be liable for his share of the cost of maintenance of such water-course so long as he uses it.

Application for construction of new water-course.

21. Any person desiring the construction of a new water-course may apply in writing to the Divisional Canal Officer, stating—

(1) that he has endeavoured unsuccessfully to acquire, from the owners of the land through which he desires such water-course to pass, a right to occupy so much of the land as will be needed for such water-course;

(2) that he desires the said Canal Officer, in his behalf and at his cost, to do all things necessary for acquiring such right;

(3) that he is able to defray all costs involved in acquiring such right and constructing such water-course.

Procedure of Canal Officer thereupon.

22. If the Divisional Canal Officer considers—

(1) that the construction of such water-course is expedient, and

(2) that the statements in the application are true,

he shall call upon the applicant to make such deposit as the Divisional Canal Officer considers necessary to defray the cost of the preliminary proceedings, and the amount of any compensation which he considers likely to become due under section 28;

and, upon such deposit being made, he shall cause inquiry to be made into the most suitable alignment for the said water-course, and shall mark out the

land which, in his opinion, it will be necessary to occupy for the construction thereof, and shall forthwith publish a notice in every village through which the water-course is proposed to be taken, that so much of such land as belongs to such village has been so marked out, and shall send a copy of such notice to the Collector of every district in which any part of such land is situate.

Application for transfer of existing water-course.

23. Any person desiring that an existing water-course should be transferred from its present owner to himself, may apply in writing to the Divisional Canal Officer, stating—

(1) that he has endeavoured unsuccessfully to procure such transfer from the owner of such water-course;

(2) that he desires the said Canal Officer, in his behalf and at his cost, to do all things necessary for procuring such transfer;

(3) that he is able to defray the cost of such transfer.

Procedure thereupon.

If the Divisional Canal Officer considers—

(*a*) that the said transfer is necessary for the better management of the irrigation from such water-course, and

(*b*) that the statements in the application are true,

he shall call upon the applicant to make such deposit as the Divisional Canal Officer considers necessary to defray the cost of the preliminary proceedings, and the amount of any compensation that may become due under the provisions of section 28 in respect of such transfer;

and, upon such deposit being made, he shall publish a notice of the application in every village, and shall send a copy of the notice to the Collector of every district, through which such water-course passes.

Objections to construction or transfer applied for.

24. Within thirty days from the publication of a notice under section 22 or section 23, as the case may be, any person interested in the land or water-course to which the notice refers may apply to the Collector by petition, stating his objection to the construction or transfer for which application has been made.

The Collector may either reject the petition or may proceed to inquire into the validity of the objection, giving previous notice to the Divisional Canal Officer of the place and time at which such inquiry will be held.

The Collector shall record in writing all orders passed by him under this section and the grounds thereof.

When applicant may be placed in occupation.

25. If no such objection is made, or (where such objection is made) if the Collector over-rules it, he shall give notice to the Divisional Canal Officer to that effect, and shall proceed forthwith to place the said applicant in occupation of the land marked out or of the water-course to be transferred, as the case may be.

Procedure when objection is held valid.

26. If the Collector considers any objection made as aforesaid to be valid, he shall inform the Divisional Canal Officer accordingly; and, if such officer sees fit, he may, in the case of an application under section 21, alter the boundaries of the land so marked out, and may give fresh notice under section 22; and the procedure hereinbefore provided shall be applicable to such notice, and the Collector shall thereupon proceed as before provided.

Procedure when Canal Officer disagrees with Collector.

27. If the Canal Officer disagrees with the Collector, the matter shall be referred for decision to the Commissioner.

Such decision shall be final, and the Collector, if he is so directed by such decision, shall, subject to the provisions of section 28, cause the said applicant to be placed in occupation of the land so marked out or of the water-course to be transferred, as the case may be.

Expenses to be paid by applicant before receiving occupation.

28. No such applicant shall be placed in occupation of such land or water-course, until he has paid to the person named by the Collector such amount as the Collector determines to be due as compensation for the land or water-course so occupied or transferred, and for any damage caused by the marking out or occupation of such land, together with all expenses incidental to such occupation or transfer.

Procedure in fixing compensation.

In determining the compensation to be made under this section, the Collector shall proceed under the provisions of the Land Acquisition Act, 1870; but he may, if the person to be compensated so desire, award such compensation in the form of a rent-charge payable in respect of the land or water-course occupied or transferred.

Recovery of compensation and expenses.

If such compensation and expenses are not paid when demanded by the person entitled to receive the same, the amount may be recovered by the Collector as if it were an arrear of land-revenue, and shall, when recovered, be paid by him to the person entitled to receive the same.

Conditions binding on applicant placed in occupation.

29. When any such applicant is placed in occupation of land or of a water-course as aforesaid, the following rules and conditions shall be binding on him and his representative in interest:—

First.—All works necessary for the passage across such water-course, of water-courses existing previous to its construction and of the drainage intercepted by it, and for affording proper communications across it for the convenience of the neighbouring lands, shall be constructed by the applicant, and be maintained by him or his representative in interest to the satisfaction of the Divisional Canal Officer.

Second.—Land occupied for a water-course under the provisions of section 22 shall be used only for the purpose of such water-course.

Third.—The proposed water-course shall be completed to the satisfaction

of the Divisional Canal Officer within one year after the applicant is placed in occupation of the land.

In cases in which land is occupied or a water-course is transferred on the terms of a rent-charge,

Fourth.—The applicant or his representative in interest shall, so long as he occupies such land or water-course, pay rent for the same at such rate and on such days as are determined by the Collector when the applicant is placed in occupation.

Fifth.—If the right to occupy the land cease owing to a breach of any of these rules, the liability to pay the said rent shall continue until the applicant or his representative in interest has restored the land to its original condition, or until he has paid, by way of compensation for any injury done to the said land, such amount and to such persons as the Collector determines.

Sixth.—The Collector may, on the application of the person entitled to receive such rent or compensation, determine the amount of rent due or assess the amount of such compensation; and if any such rent or compensation be not paid by the applicant or his representative in interest, the Collector may recover the amount, with interest thereon at the rate of six per cent. per annum from the date on which it became due, as if it were an arrear of land-revenue, and shall pay the same, when recovered, to the person to whom it is due.

If any of the rules and conditions prescribed by this section are not complied with,

or if any water-course constructed or transferred under this Act is disused for three years continuously,

the right of the applicant, or of his representative in interest, to occupy such land or water-course shall cease absolutely.

30. The procedure hereinbefore provided for the occupation of land for the construction of a water-course shall be applicable to the occupation of land for any extension or alteration of a water-course, and for the deposit of soil from water-course clearances.

Procedure applicable to occupation for extensions and alterations.

PART IV.

Of the Supply of Water.

31. In the absence of a written contract, or so far as any such contract does not extend, every supply of canal-water shall be deemed to be given at the rates and subject to the conditions prescribed by the rules[a] to be made by the Local Government in respect thereof.

In absence of written contract, water-supply to be subject to rules.

[a] See section 75, *infra*.

Conditions as to—

32. Such contracts and rules must be consistent with the following conditions:—

power to stop water-supply;

(*a*). The Divisional Canal Officer may not stop the supply of water to any water-course, or to any person, except in the following cases:—

(1) whenever and so long as it is necessary to stop such supply for the purpose of executing any work ordered by competent authority, and with the previous sanction of the Local Government;

(2) whenever and so long as any water-course is not maintained in such proper customary repair as to prevent the wasteful escape of water therefrom;

(3) within periods fixed from time to time by the Divisional Canal Officer:

claims to compensation in case of failure or stoppage of supply;

(*b*). No claim shall be made against the Government for compensation in respect of loss caused by the failure or stoppage of the water in a canal, by reason of any cause beyond the control of the Government, or of any repairs, alterations or additions to the canal, or of any measures taken for regulating the proper flow of water therein, or for maintaining the established course of irrigation which the Divisional Canal Officer considers necessary; but the person suffering such loss may claim such remission of the ordinary charges payable for the use of the water as is authorized by the Local Government:

claims on account of interruption from other causes;

(*c*). If the supply of water to any land irrigated from a canal be interrupted otherwise than in the manner described in the last preceding clause, the occupier or owner of such land may present a petition for compensation to the Collector for any loss arising from such interruption, and the Collector may award to the petitioner reasonable compensation for such loss:

duration of supply,

(*d*). When the water of a canal is supplied for the irrigation of a single crop, the permission to use such water shall be held to continue only until that crop comes to maturity, and to apply only to that crop; but if it be supplied for irrigating two or more crops to be raised on the same land within the year, such permission shall be held to continue for one year from the commencement of the irrigation, and to apply to such crops only as are matured within that year:

sale or sub-letting of right to use canal-water;

(*e*). Unless with the permission of the Superintending Canal Officer, no person entitled to use the water of any canal, or any work, building or land appertaining to any canal, shall sell or sub-let or otherwise transfer his right to such use: Provided that the former part of this clause shall not apply to the use by a cultivating tenant of water supplied by the owner of a water-course for the irrigation of the land held by such tenant:

transfer, with land, of contracts for water;

But all contracts made between Government and the owner or occupier of any immoveable property, as to the supply of canal-water to such property, shall be transferable therewith, and shall be presumed to have been so transferred whenever a transfer of such property takes place:

(*f*). No right to the use of the water of a canal shall be, or be deemed to have been, acquired under the Indian Limitation Act, 1871, Part IV, nor shall Government be bound to supply any person with water, except in accordance with the terms of a contract in writing.

No right acquired by user.

PART V.

Of Water-rates.

33. If water supplied through a water-course be used in an unauthorized manner, and if the person by whose act or neglect such use has occurred cannot be identified,

the person on whose land such water has flowed, if such land has derived benefit therefrom,

or if such person cannot be identified, or if such land has not derived benefit therefrom, all the persons chargeable in respect of the water supplied through such water-course,

shall be liable, or jointly liable, as the case may be, to the charges made for such use.

Liability when person using unauthorizedly cannot be identified.

34. If water supplied through a water-course be suffered to run to waste, and if, after inquiry by the Divisional Canal Officer, the person through whose act or neglect such water was suffered to run to waste cannot be discovered, all the persons chargeable in respect of the water supplied through such water-course shall be jointly liable for the charges made in respect of the water so wasted.

Liability when water runs to waste.

35. All charges for the unauthorized use or for waste of water may be recovered in addition to any penalties incurred on account of such use or waste.

Charges recoverable in addition to penalties.

All questions under section 33 or section 34 shall be decided by the Divisional Canal Officer, subject to an appeal to the head revenue officer of the district, or such other appeal as may be provided under section 75.

Decision of questions under sections 33 and 34.

36. The rates to be charged for canal-water supplied for purposes of irrigation to the occupiers of land shall be determined by the rules to be made by the Local Government, and such occupiers as accept the water shall pay for it accordingly.

Charge on occupier for water how determined.

A rate so charged shall be called the 'occupier's rate.'

'Occupier's rate.'

37. In addition to the occupier's rate, a rate to be called the 'owner's rate' may be imposed, according to rules[a] to be made by the Local Government, on the owners of canal-irrigated lands, in respect of the benefit which they derive from such irrigation.

'Owner's rate.'

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[a] See *N. W. P. Gazette*, 15th May 1875, p. 653.

Amount of owner's rate.

38. The owner's rate shall not exceed the sum which, under the rules for the time being in force for the assessment of land-revenue, might be assessed on such land, on account of the increase in the annual value or produce thereof caused by the canal-irrigation. And for the purpose of this section only, land which is permanently settled or held free of revenue, shall be considered as though it were temporarily settled and liable to payment of revenue.

Owner's rate when not chargeable.

39. No owner's rate shall be chargeable either on the owner or occupier of land temporarily assessed to pay land-revenue at irrigation-rates, during the currency of such assessment.

When occupier is to pay both owner's rate and occupier's rate.

40. If such land is occupied by the owner,

or if it is occupied by a tenant whose rent is not liable to enhancement on the ground that the value of the produce of the land or the productive powers of the land has or have been increased by irrigation,

such owner or tenant shall pay the owner's rate as well as the occupier's rate.

Power to make rules for apportioning owner's rate.

41. In the case of a tenant with a right of occupancy, the Local Government shall have power to make rules for dividing the owner's rate between such tenant and his landlord, proportionately to the extent of the beneficial interest of each in the land.

When owner is to pay owner's rate.

42. If the owner of the land is not the occupier, but has power to enhance the rent of the occupier on the ground that the value of the produce or the productive powers of the land has or have been increased by irrigation;

or if, when the amount of rent was fixed, the land was irrigated from the canal,

the owner shall pay the owner's rate.

Effect of introduction of canal-irrigation on landlord's right to enhance.

43. If a revision of settlement is a ground for entertaining a suit for the enhancement of rent, the introduction of canal-irrigation into any land shall have the same effect on the landlord's right to re-enhance the rent of a tenant with a right of occupancy of such land, as if a revision of settlement had taken place, under which the revenue payable in respect of such land had been increased.

Water-rate by whom payable when charged on land held by several owners.

44. Where a water-rate is charged on land held by several joint owners, it shall be payable by the manager or other person who receives the rents or profits of such land, and may be deducted by him from such rents or profits before division, or may be recovered by him from the persons liable to such rate in the manner customary in the recovery of other charges on such rents or profits.

Recovery of Charges.

Certified dues

45. Any sum, lawfully due under this Part, and certified by the Divisional

Canal Officer to be so due, which remains unpaid after the day on which it becomes due, shall be recoverable by the Collector from the person liable for the same as if it were an arrear of land-revenue.

recoverable as land-revenue.

46. The Divisional Canal Officer or the Collector may enter into an agreement with any person for the collection and payment to the Government by such person of any sum payable under this Act by a third party.

Power to contract for collection of canal-dues.

When such agreement has been made, such person may recover such sum by suit as though it were a debt due to him, or an arrear of rent due to him on account of the land, work or building in respect of which such sum is payable, or for or in which the canal-water shall have been supplied or used.

If such person makes default in the payment of any sum collected by him under this section, such sum may be recovered from him by the Collector under section 45; and if such sum or any part of it be still due by the said third party, the sum or part so due may be recovered in like manner by the Collector from such third party.

47. The Collector may require the lambardár or person under engagement to pay the land-revenue of any estate, to collect and pay any sums payable under this Act by a third party, in respect of any land or water in such estate.

Lambardárs may be required to collect canal-dues.

Such sums shall be recoverable by the Collector as if they were arrears of land-revenue due in respect of the defaulter's share in such estate;

and for the purpose of collecting such sums from the subordinate zamíndárs, raiyats or tenants, such lambardár or person may exercise the powers, and shall be subject to the rules, laid down in the law for the time being in force in respect to the collection by him of the rents of land or of shares of land-revenue.

The Local Government shall provide

(*a*) for remunerating persons collecting sums under this section; or

(*b*) for indemnifying them against expenses properly incurred by them in such collection; or

(*c*) for both such purposes.

48. Nothing in sections 45, 46 or 47 applies to fines.

Fines excluded from sections 45, 46, 47.

PART VI.

Of Canal-navigation.

49. Any vessel entering or navigating any canal contrary to the rules made in that behalf by the Local Government, or so as to cause danger to the canal or the other vessels therein, may be removed or detained, or both removed and detained, by the Divisional Canal Officer, or by any other person duly authorized in this behalf.

Detainer of vessels violating rules.

Liability of owners of vessels causing damage.

The owner of any vessel causing damage to a canal, or removed or detained under this section, shall be liable to pay to the Government such sum as the Divisional Canal Officer, with the approval of the Superintending Canal Officer, determines to be necessary to defray the expenses of repairing such damage, or of such removal or detention, as the case may be.

Recovery of fines for offences in navigating canals.

50. Any fine imposed under this Act upon the owner of any vessel, or the servant or agent of such owner or other person in charge of any vessel, for any offence in respect of the navigation of such vessel, may be recovered either in the manner prescribed by the Code of Criminal Procedure, or, if the Magistrate imposing the fine so directs, as though it were a charge due in respect of such vessel.

Power to seize and detain vessel on failure to pay charges.

51. If any charge due under the provisions of this Part in respect of any vessel is not paid on demand to the person authorized to collect the same, the Divisional Canal Officer may seize and detain such vessel and the furniture thereof, until the charge so due, together with all expenses and additional charges arising from such seizure and detention, is paid in full.

Power to seize cargo or goods, if charges due thereon are not paid.

52. If any charge due under the provisions of this Part in respect of any cargo or goods carried in a Government vessel on a canal, or stored on or in lands or warehouses occupied for the purposes of a canal, is not paid on demand to the person authorized to collect the same, the Divisional Canal Officer may seize such cargo or goods and detain them until the charge so due, together with all expenses and additional charges arising from such seizure and detention, is paid in full.

Procedure for recovery of such charges after seizure.

53. Within a reasonable time after any seizure under section 51 or section 52, the said Canal Officer shall give notice to the owner or person in charge of the property seized that it, or such portion of it as may be necessary, will, on a day to be named in the notice, but not sooner than fifteen days from the date of the notice, be sold in satisfaction of the claim on account of which such property was seized, unless the claim be discharged before the day so named.

And if such claim be not so discharged, the said Canal Officer may, on such day, sell the property seized or such part thereof as may be necessary to yield the amount due, together with the expenses of such seizure and sale:

Provided that no greater part of the furniture of any vessel or of any cargo or goods shall be so sold than shall, as nearly as may be, suffice to cover the amount due in respect of such vessel, cargo or goods.

The residue of such furniture, cargo or goods, and of the proceeds of the sale, shall be made over to the owner or person in charge of the property seized.

Procedure in respect of

54. If any vessel be found abandoned in a canal, or any cargo or goods carried in a Government vessel on a canal, or stored on or in lands or ware-

houses occupied for the purposes of a canal, be left unclaimed for a period of two months, the Divisional Canal Officer may take possession of the same.

Vessels abandoned and goods unclaimed.

The officer so taking possession may publish a notice that, if such vessel and its contents, or such cargo or goods, are not claimed previously to a day to be named in the notice, not sooner than thirty days from the date of such notice, he will sell the same; and, if such vessel, contents, cargo or goods be not so claimed, he may, at any time after the day named in the notice, proceed to sell the same.

Disposal of proceeds of sale.

The said vessel and its contents, and the said cargo or goods, if unsold, or, if a sale has taken place, the proceeds of the sale, after paying all tolls, charges and expenses incurred by the Divisional Canal Officer on account of the taking possession and sale, shall be made over to the owner of the same, when his ownership is established to the satisfaction of the Divisional Canal Officer.

If the Divisional Canal Officer is doubtful to whom such property or proceeds should be made over, he may direct the property to be sold as aforesaid, and the proceeds to be paid into the district treasury, there to be held until the right thereto be decided by a Court of competent jurisdiction.

PART VII.

Of Drainage.

Power to prohibit obstructions or order their removal.

55. Whenever it appears to the Local Government that injury to any land or the public health or public convenience has arisen or may arise from the obstruction of any river, stream or drainage-channel, such Government may, by notification published in the official Gazette, prohibit, within limits to be defined in such notification, the formation of any obstruction, or may, within such limits, order the removal or other modification of such obstruction.

Thereupon so much of the said river, stream or drainage-channel as is comprised within such limits, shall be held to be a drainage-work as defined in section 3.

Power to remove obstructions after prohibition.

56. The Divisional Canal Officer, or other person authorised by the Local Government in that behalf, may, after such publication, issue an order to the person causing or having control over any such obstruction to remove or modify the same within a time to be fixed in the order.

If, within the time so fixed, such person does not comply with the order, the said Canal Officer may himself remove or modify the obstruction; and if the person to whom the order was issued does not, when called upon, pay the expenses involved in such removal or modification, such expenses shall be recoverable by the Collector from him or his representative in interest as an arrear of land-revenue.

Preparation of schemes for works of improvement.

57. Whenever it appears to the Local Government that any drainage-works are necessary for the improvement of any lands, or for the proper cultivation or irrigation thereof,

or that protection from floods or other accumulations of water, or from erosion by a river, is required for any lands,

the Local Government may cause a scheme for such drainage-works to be drawn up and published, together with an estimate of its cost and a statement of the proportion of such cost which the Government proposes to defray, and a schedule of the lands which it is proposed to make chargeable in respect of the scheme.

Powers of persons employed on such schemes.

58. The persons authorized by the Local Government to draw up such scheme may exercise all or any of the powers conferred on Canal Officers by section 14.

Rate on lands benefited by works.

59. An annual rate, in respect of such scheme, may be charged, according to rules to be made by the Local Government, on the owners of all lands which shall, in the manner prescribed by such rules, be determined to be so chargeable.

Such rate shall be fixed as nearly as possible so as not to exceed either of the following limits :—

(1.) Six per cent. per annum on the first cost of the said works, adding thereto the estimated yearly cost of the maintenance and supervision of the same, and deducting therefrom the estimated income, if any, derived from the works, excluding the said rate :

(2.) In the case of agricultural land, the sum which, under the rules then in force for the assessment of land-revenue, might be assessed on such land on account of the increase of the annual value or produce thereof caused by the drainage-work.

Such rate may be varied from time to time, within such maximum, by the Local Government.

So far as any defect to be remedied is due to any canal, water-course, road or other work or obstruction, constructed or caused by the Local Government or by any person, a proportionate share of the cost of the drainage-works required for the remedy of the said defect shall be borne by such Government or such person as the case may be.

Recovery of rate.

60. Any such drainage-rate may be collected and recovered in manner provided by sections 45, 46 and 47, for the collection and recovery of water-rates.

Disposal of claims to compensation.

61. Whenever, in pursuance of a notification made under section 55, any obstruction is removed or modified,

or whenever any drainage-work is carried out under section 57,

all claims for compensation on account of any loss consequent on the removal or modification of the said obstruction or the construction of such

work, may be made before the Collector, and he shall deal with the same in the manner provided in section 10.

62. No such claim shall be entertained after the expiration of one year from the occurrence of the loss complained of, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

Limitation of such claims.

PART VIII.

Of obtaining Labour for Canals and Drainage-works.

63. For the purposes referred to in this Part, the word 'Labourer' includes persons who exercise any handicraft specified in rules to be made in that behalf by the Local Government.

Definition of 'Labourer.'

64. In any district in which a canal or drainage-work is constructed, maintained or projected by Government, the Local Government may, if it thinks fit, direct the Collector

Power to prescribe number of labourers to be supplied by persons benefited by canal.

(*a*) to ascertain the proprietors, sub-proprietors or farmers, whose villages or estates are or will be, in the judgment of the Collector, benefited by such canal or drainage-work, and

(*b*) to set down in a list, having due regard to the circumstances of the district and of the several proprietors, sub-proprietors or farmers, the number of labourers which shall be furnished by any of the said persons, jointly or severally, from any such village or estate, for employment on any such canal or drainage-work when required as hereinafter provided.

The Collector may, from time to time, add to or alter such list or any part thereof.

65. Whenever it appears to a Divisional Canal Officer duly authorized by the Local Government, that, unless some work is immediately executed, such serious damage will happen to any canal or drainage-work as to cause sudden and extensive public injury,

Procedure for obtaining labour for works urgently required.

and that the labourers necessary for the proper execution thereof cannot be obtained in the ordinary manner within the time that can be allowed for the execution of such work so as to prevent such injury,

the said officer may require any person named in such list to furnish as many labourers (not exceeding the number which, according to the said list, he is liable to supply) as to the said officer seem necessary for the immediate execution of such work.

Every requisition so made shall be in writing, and shall state

(*a*) the nature and locality of the work to be done,

(*b*) the number of labourers to be supplied by the person upon whom the requisition is made, and

(*c*) the approximate time for which and the day on which the labourers will be required;

and a copy thereof shall be immediately sent to the Superintending Canal Officer for the information of the Local Government.

The Local Government shall fix, and may from time to time alter, the rates to be paid to any such labourers: provided that such rates shall exceed the highest rates for the time being paid in the neighbourhood for similar work. In the case of every such labourer, the payment shall continue for the whole period during which he is, in consequence of the provisions of this Part, prevented from following his ordinary occupation.

The Local Government may, with the previous sanction of the Governor General in Council, direct that the provisions of this Part shall apply, either permanently or temporarily (as the case may be), to any district or part of a district for the purpose of effecting necessary annual silt-clearances, or to prevent the proper operation of a canal or drainage-work being stopped or so much interfered with as to stop the established course of irrigation or drainage.

Liability of labourers under requisition.

66. When any requisition has been made on any person named in the said list, every labourer ordinarily resident within the village or estate of such person shall be liable to supply, and to continue to supply, his labour, for the purposes aforesaid.

PART IX.

Of Jurisdiction.

Jurisdiction under this Act of Civil Courts.

67. Except where herein otherwise provided, all claims against Government in respect of anything done under this Act may be tried by the Civil Courts; but no such Court shall in any case pass an order as to the supply of canal-water to any crop sown or growing at the time of such order.

Settlement of differences as to mutual rights and liabilities of persons interested in water-course.

68. Whenever a difference arises between two or more persons in regard to their mutual rights or liabilities in respect of the use, construction or maintenance of a water-course, any such person may apply in writing to the Divisional Canal Officer stating the matter in dispute. Such officer shall thereupon give notice to the other persons interested that, on a day to be named in such notice, he will proceed to inquire into the said matter. And, after such inquiry, he shall pass his order thereon, unless he transfers (as he is hereby empowered to do) the matter to the Collector, who shall thereupon inquire into and pass his order on the said matter.

Such order shall be final as to the use or distribution of water for any crop sown or growing at the time when such order is made, and shall thereafter remain in force until set aside by the decree of a Civil Court.

Power to

69. Any officer empowered under this Act to conduct any inquiry may

exercise all such powers connected with the summoning and examining of witnesses, as are conferred on Civil Courts by the Code of Civil Procedure; and every such inquiry shall be deemed a judicial proceeding. summon and examine witnesses.

PART X.

Of Offences and Penalties.

70. Whoever, without proper authority and voluntarily, does any of the acts following, that is to say,— Offences under Act.

(1) damages, alters, enlarges or obstructs any canal or drainage-work;

(2) interferes with, increases or diminishes the supply of water in, or the flow of water from, through, over or under, any canal or drainage-work;

(3) interferes with or alters the flow of water in any river or stream, so as to endanger, damage or render less useful, any canal or drainage-work;

(4) being responsible for the maintenance of a water-course, or using a water-course, neglects to take proper precautions for the prevention of waste of the water thereof, or interferes with the authorized distribution of the water therefrom, or uses such water in an unauthorized manner;

(5) corrupts or fouls the water of any canal so as to render it less fit for the purposes for which it is ordinarily used;

(6) causes any vessel to enter or navigate any canal contrary to the rules for the time being prescribed by the Local Government for entering or navigating such canal;

(7) while navigating on any canal, neglects to take proper precautions for the safety of the canal and of vessels thereon;

(8) being liable to furnish labourers under Part VIII of this Act, fails, without reasonable cause, to supply or to assist in supplying the labourers required of him;

(9) being a labourer liable to supply his labour under Part VIII of this Act, neglects, without reasonable cause, so to supply, and to continue to supply, his labour;

(10) destroys or moves any level-mark or water-gauge fixed by the authority of a public servant;

(11) passes, or causes animals or vehicles to pass, on or across any of the works, banks or channels of a canal or drainage-work contrary to rules made under this Act, after he has been desired to desist therefrom;

(12) violates any rule made under this Act, for breach whereof a penalty may be incurred,

shall be liable, on conviction before a Magistrate of such class as the Local Government directs in this behalf, to a fine not exceeding fifty rupees, or to imprisonment not exceeding one month, or to both. Penalty.

Saving of prosecution under other laws.

71. Nothing herein contained shall prevent any person from being prosecuted under any other law for any offence punishable under this Act: Provided that no person shall be punished twice for the same offence.

Compensation to person injured.

72. Whenever any person is fined for an offence under this Act, the Magistrate may direct that the whole or any part of such fine may be paid by way of compensation to the person injured by such offence.

Power to arrest without warrant.

73. Any person in charge of or employed upon any canal or drainage-work, may remove from the lands or buildings belonging thereto, or may take into custody without a warrant and take forthwith before a Magistrate or to the nearest police-station, to be dealt with according to law, any person who, within his view, commits any of the following offences:

(1) wilfully damages or obstructs any canal or drainage-work;

(2) without proper authority interferes with the supply or flow of water in or from any canal or drainage-work, or in any river or stream, so as to endanger, damage or render less useful, any canal or drainage-work.

Definition of 'Canal.'

74. In this Part the word 'Canal' shall (unless there be something repugnant in the subject or context) be deemed to include also all lands occupied by Government for the purposes of canals, and all buildings, machinery, fences, gates and other erections, trees, crops, plantations or other produce, occupied by or belonging to Government, upon such lands.

PART XI.

Of Subsidiary Rules.

Power to make, alter and cancel rules.

75. The Local Government may, from time to time, with the previous sanction of the Governor General in Council, make rules to regulate the following matters:—

(1) the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter;

(2) the cases in which, and the officers to whom, and the conditions subject to which, orders and decisions given under any provision of this Act, and not expressly provided for as regards appeal, shall be appealable;

(3) the persons by whom, the time, place or manner at or in which, anything for the doing of which provision is made in this Act, shall be done;

(4) the amount of any charge made under this Act;

(5) and generally to carry out the provisions of this Act.

The Local Government may from time to time, with the like sanction, alter or cancel any rules so made.

Publication of rules.

Such rules, alterations and cancelments shall be published in the local official Gazette, and shall thereupon have the force of law.

NORTH-WESTERN PROVINCES AND OUDH MUNICIPALITIES ACT.

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ACT No. XV OF 1873.

Received the Governor General's assent on the 21st of November 1873.

An Act to make better provision for the appointment of Municipal Committees in the North-Western Provinces and Oudh, and for other purposes.

Preamble. WHEREAS it is expedient to make better provision for the appointment of Municipal Committees in the North-Western Provinces and Oudh, and for the police, conservancy and local improvements, and for education, and for the levying of rates and taxes, in the places to which this Act may be extended; It is hereby enacted as follows:—

CHAPTER I.—PRELIMINARY.

Short title. 1. This Act may be called "The North-Western Provinces and Oudh Municipalities Act, 1873:"

Local extent. It extends to the territories for the time being respectively under the government of the Lieutenant Governor of the North-Western Provinces and under the administration of the Chief Commissioner of Oudh;

2. Acts Nos. XVIII of 1864 (*to provide for the appointment of a Municipal Committee for the City of Lucknow*), XXII of 1865 (*to amend Act No. XVIII of* 1864), XV of 1867 (*to make better provision for the appointment of Municipal Committees in the Panjáb, and for other purposes*), and VI of 1868 (*to make better provision for the appointment of Municipal Committees in the North-Western Provinces, and for other purposes*) are repealed. Repeal of enactments.

But all extensions and appointments made, and all limits defined, under any of the said Acts, shall be deemed to be respectively made and defined under this Act.

And all assessments, bye-laws, rules and regulations of any kind relating to matters provided for by this Act, which may heretofore have been made and approved by the Local Government, shall be deemed to have been made under this Act.

And all proceedings taken under any such assessment, bye-law, rule or regulation, shall be deemed to be as valid as if they had been taken under this Act.

3. In this Act, unless there be something repugnant in the subject or context— Interpretation-clause.

"Committee" means a municipal committee appointed under the provisions of this Act; and "Committee."

"Municipality" means any town or towns to which this Act may be extended. "Municipality."

4. The Local Government may, by notification published in the local official Gazette, declare its intention to extend this Act, or any of its provisions, to any town or towns in the territories under such Government. Power to extend Act.

Any inhabitant of such town objecting to such extension may, within six weeks from the date of the said publication, send his objection in writing to the secretary to the Local Government, and the Local Government shall take such objection into consideration.

When six weeks from the said publication have expired, the Local Government, if no such objections have been sent as aforesaid, or (where such objections have been so sent in) if, in its opinion, they are insufficient, may, by like notification, effect the proposed extension.

5. For the purposes of this Act, the Local Government may from time to time, by notification in the local official Gazette, define the limits of any town, and may include within the limits of such town any railway-station, village, building or land in the vicinity: Power to define limits of places to which Act extends.

Provided that no cantonment shall, without the previous consent of the Governor General in Council, be included within the limits of any town for the purposes of this Act.

The Local Government may from time to time, by notification in the local official Gazette, declare to be united for the purposes of this Act any two or more towns, and may also declare by what name the municipality so formed shall be designated.

CHAPTER II.—APPOINTMENT OF MUNICIPAL COMMITTEES.

Appointment of Committees.

6. In any municipality to which this Act shall have been extended, the Local Government may appoint or direct to be appointed by election, for such period, not exceeding two years, as to it may seem fit, any number of the inhabitants of, or of persons possessing property or carrying on any trade or business in, such municipality, to be members of a Committee for carrying out the purposes of the Act.

The persons so appointed shall continue in office for two years, or until their successors shall have been appointed, and shall be eligible for re-appointment.

In cases where the Local Government directs the appointment to be by election, it may fix the time and manner of the election and the qualifications of the electors, and of the candidates for office, and, generally, may make such rules as it thinks fit for regulating the election.

Removal of members.

7. The Local Government may from time to time remove any of the members of the committee so appointed who desire to be discharged, or refuse or become incapable to act, or are convicted of an offence punishable under the Indian Penal Code with imprisonment for a term of not less than six months.

Addition of members.

8. The Local Government may also fill up vacancies occurring among the members of the committee, and may, if it think fit, on the recommendation of the committee, add to their number.

Every member so appointed shall have the same powers, and be subject to the same liabilities, and vacate his office, and be eligible for re-appointment, as if he had been originally appointed a member under section 6.

Ex officio members.

9. In addition to the members appointed as aforesaid, the Local Government shall have power to appoint *ex officio* members of the committee for every place in which they exercise their offices and to which this Act shall have been extended:

Provided that the number of such *ex officio* members shall not be more than one-third of the total number of the committee.

Appointment of president and vice-president.

10. The Local Government may also appoint the president and vice-president, or either of them, of any committee, or sanction the election by any committee of one of their members as president or as vice-president.

Appointment of secretary.

The committee may appoint any one of their members or any other person to be their secretary,

11. All appointments and removals of members of a committee, made under this chapter, shall be notified in the local official Gazette.

Notification of appointments and removals of members.

CHAPTER III.—Office and Meetings of Committees.

12. The committee shall have an office, where they shall meet for the transaction of business at least once in every month.

Committee to have an office.

13. (*a*). The president, or, in his absence, the vice-president, shall take the chair at every meeting of the committee. In the absence of both the president and vice-president, the members present may elect a chairman for the occasion.

Rules as to meetings.

(*b*). The meetings shall be either general or special.

(*c*). The president or vice-president may, whenever he thinks fit, and he shall, upon a requisition made in writing by not less than one-fifth in number of the members, convene a meeting.

(*d*). Notice shall be given of every such meeting, and when the meeting is to be special, at least three days' notice thereof shall be given. Every notice shall state generally the nature of the business to be transacted at the meeting proposed to be called.

(*e*). The quorum necessary for the transaction of business at a general meeting shall be three.

(*f*). The quorum necessary for the transaction of business at a special meeting shall be one-half of the total number of the members of the committee at the time of the meeting; and at least two-thirds of such quorum shall consist of non-official members.

(*g*). If within one hour from the time appointed for the meeting a quorum is not present, the meeting, if summoned by the president or vice-president, shall be dissolved.

In any other case it shall stand adjourned to the same day in the next week at the same time and place. And if at such adjourned meeting a quorum is not present, it shall be adjourned *sine die.*

(*h*). All business may be transacted at a general meeting which this Act does not require to be transacted at a special meeting.

(*i*). All questions which may come before the committee at any meetings shall be decided by a majority of votes. Every member shall have one vote. In case of equality of votes, the chairman shall have a second or casting vote.

(*j*). Such decisions shall be recorded in a book kept for the purpose, and shall be published in some local English or vernacular newspaper (if any), or in such other manner as the Local Government may from time to time direct.

Correspondence between committee and Local Government.

14. All correspondence between the committee and the Local Government shall pass through the Commissioner of the Division.

The Commissioner of the Division shall be entitled to make such suggestions for the consideration of the committee as he may deem fit; and the committee shall furnish him with any information he may call for connected with the duties imposed upon them by this Act.

CHAPTER IV.

Powers of Committees.

Power to make assessments and levy taxes.

15. Subject to any general rules or special orders which the Governor General in Council may from time to time make in this behalf,

every committee intending to impose taxes for the purposes of this Act, shall from time to time give notice of such intention, and shall in such notice define the persons or property within the municipality to be taxed for the purposes of this Act, and the amount or rate of the taxes to be imposed hereunder.

Any inhabitant of such town objecting to such notice may, within a fortnight from the date of the said notice, send his objection in writing to the chairman of the committee, and the committee shall take such objection into consideration and report their opinion thereon to the Local Government.

When a fortnight from the date of the said notice has expired, if no such objections have been sent as aforesaid, or (where such objections have been so sent in) if, in the opinion of the committee, they are insufficient, the committee may, with the previous sanction of the Local Government, to be notified in the official Gazette, define the persons or property to be taxed and the amount or rate of the taxes aforesaid, and may then at a special meeting impose such taxes accordingly.

The committee may, at a special meeting, with the same sanction, cancel or vary any tax so imposed.

Specification of taxes.

16. Such taxes may (subject to the rules or orders last aforesaid) be all or any of the following:—

(*a*).—A tax on houses, buildings and lands according to the annual value thereof, not exceeding seven and a half per cent. of such value:

(*b*).—A tax on professions and trades:

(*c*).—Taxes on carriages, horses, mules, elephants, camels, bullocks and asses:

(*d*).—Tolls on carriages, carts and animals entering the limits of the municipality:

(*e*).—An octroi on articles brought within the said limits for consumption or use therein: Provided that a list of such articles shall have been submitted to and approved by the Local Government: Provided also, that the Local Government may exempt from the octroi any such articles intended for consumption or use by any class of persons or animals.

17. If the committee desire to impose any other or further tax than such as are hereinbefore specified, they may do so with the previous sanction of the Local Government and of the Governor General in Council, and subject to the provisions of section 15. Imposition of other taxes.

18. No tax shall be collected until the assessment thereof has been confirmed by such persons and in such manner as the Local Government appoints in this behalf. Taxes to be confirmed.

The Local Government may from time to time make rules as to the persons by whom, and the manner in which, any assessment of taxes under this Act shall be confirmed, and for the collection of such taxes. Rules for confirmation and collection of taxes.

The Local Government may from time to time repeal, alter or add to such rules.

19. No tax or toll, or rate on property, made under this Act shall be invalid for defect of form; and it shall be enough, in any such rate on property, or any assessment of value for the purpose of making such rate, if the property rated or assessed shall be so described as to be generally known, and it shall not be necessary to name the owner or occupier thereof. No tax or rate invalid for defect of form.

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Bye-laws and Rules.

20. Every committee may at a special meeting make bye-laws consistent with this Act, for regulating the time and place of their meeting, the conduct of their business, the division of duties among the members of the committee, the salaries, appointment, suspension and removal of the officers and servants of the committee, and other similar matters. Power of committees to make bye-laws.

21. The committee may appoint one or more of their number to carry out their resolutions, and to enforce the bye-laws and rules made, under the provisions of this Act, for the protection of the public health, or they may appoint a special officer for such purposes. Enforcement of bye-laws and rules.

22. The committee may at a special meeting make rules Power to make rules as to nuisances,

for declaring what acts or omissions within the municipality shall be considered to be public nuisances;

for defining the cases, manner and times in and at which the officers of the committee may enter upon private property for the detection and abatement of nuisances;

hire of carriages, and

for determining the rates of hire of carriages, carts and boats plying for hire within the limits of the municipality;

registration of births, marriages and deaths.

for securing a proper registration of births, marriages and deaths,

and for carrying out all or any of the purposes of this Act.

The committee may from time to time, at a special meeting, repeal, alter or add to such rules.

Confirmation of rules.

23. No rule, and no alteration or repeal of, or addition to, a rule, made under this Act, shall have effect until it has been confirmed by the Local Government.

Publication of rules and bye-laws.

24. All bye-laws and rules made under this Act, and all alterations and repeals of, and additions to, such bye-laws and rules shall be published for such length of time and in such manner as the Local Government from time to time directs.

Nuisances.

Power to prohibit repetition or continuance of nuisances.

25. Every committee may enjoin within the limits of the municipality any person not to repeat or continue a public nuisance.

Every such injunction shall be deemed to have been made by a public servant.

Power to remove nuisances.

26. Every committee which the Local Government authorizes in this behalf may, so long as such authorization continues, exercise the powers of a Magistrate of a district as described in section 521 of the Code of Criminal Procedure, for the removal of nuisances; and in the exercise of such powers shall follow the procedure prescribed in sections 521 to 528 (both inclusive) of the same Code.

Purchase and Sale of Land.

Power to buy and sell land for purposes of Act.

27. Any committee may at a special meeting, and with the previous sanction of the Local Government, purchase land for the purposes of this Act, and may at a like meeting and with the like sanction sell any portion of such land which is not required for the purposes aforesaid, and convey the same in the names of the president and two of the members of the committee.

Receipts.

The receipt of the president and any two members of the committee for any monies paid to them upon any such sale, shall effectually discharge the persons paying the same therefrom, or from being concerned to see to the application thereof, or being accountable for the non-application or mis-application thereof; and the proceeds of any such sale shall be applied for the purposes of this Act.

Controlling Power of Local Government.

Cancellation and suspension of proceedings.

28. The Local Government may by order cancel, suspend or limit any of the acts, proceedings, bye-laws or rules of any committee.

To every suit or other proceeding brought against a committee, the Local Government shall be made a party. **Conduct of litigation.**

29. The Local Government may also abolish any tax which shall have been sanctioned under the provisions hereinbefore contained, but not so as to entitle any person to a refund of money paid in respect of such tax. **Abolition of taxes.**

CHAPTER V.—Rights, Duties and Liabilities of Committees.

Municipal Fund.

30. All sums received by the committee of any municipality to which this Act extends, **Municipal fund.**

and all fines levied under this Act, or under Act No. V of 1861 (*for the regulation of Police*), on account of nuisances committed within the municipal limits,

and all receipts from property entrusted to and managed by the committee,

shall constitute a fund which shall be called the municipal fund of such municipality, and shall, together with all property which may become vested in such committee, be under their control, and shall be applied by them as trustees for the purposes of this Act.

31. The municipal fund shall, as a rule, be kept in the Government treasury of the district, or in the Bank (if any) to which the Government treasury business shall have been made over. **Custody and disbursement of municipal fund.**

But in places where there is no such treasury or Bank, the said fund may, with the previous sanction of the Local Government, be deposited with any banker, or person acting as a banker, who has given such security for the safe custody and repayment on demand of the fund so deposited as the Local Government in each case thinks sufficient.

No disbursement of the municipal fund, or any part thereof, shall be made except under the signature of the president or vice-president and one other member of the committee.

32. Every committee, so far as the municipal fund at their disposal will permit, shall, after providing out of such fund for a police-establishment in the manner hereinafter mentioned, keep the public streets, roads, drains, tanks and water-courses of the municipality for which they are appointed, clean and in repair, **Duties and powers of committees.**

and may cause such streets and roads or any of them to be watered and lighted,

and may construct and provide for the management of poor-houses, dispensaries, market-places and other works of general utility,

and, generally, may do all acts and things necessary for the purposes of conservancy and general utility within their municipality.

The committee may also make provision, by the establishment of new schools or the aiding of already existing schools, or otherwise, for the promotion of education in their municipality.

Contracts.

33. Every contract made on behalf of any committee in respect of any sum exceeding twenty rupees, or in respect of any property exceeding twenty rupees in value, shall be in writing, and shall be signed by the president or vice-president and at least two other members of the committee, of whom one shall be an *ex officio* member. Unless so executed, it shall not be binding on the committee.

Municipal Police.

Provision for police.

34. Every committee shall provide in the first place, from its funds, for the maintenance of the police-establishment in the municipality.

The municipal police shall be appointed under such Act of the Governor General in Council as may be applicable to the town, and their number shall be fixed by the committee in consultation with the Inspector General of Police, subject to the final decision of the Local Government.

Police to aid in carrying out orders regarding nuisances.

35. Every officer of Police in any municipality to which this Act shall have been extended, may take into custody without a warrant any person who, within his view, commits any of the offences mentioned in section 34 of Act No. V of 1861 (*for the regulation of Police*), and shall carry out the orders issued by the committee for the prohibition and prevention of public nuisances, or nuisances declared to be such by any rule made under this Act.

Annual Reports and Accounts.

Annual reports and accounts to be submitted.

36. Every committee shall annually, or oftener if directed by the Local Government to do so, submit reports of all works executed, or proceedings taken, by them under the authority of this Act, and also accounts of and relating to the municipal fund.

Such accounts shall be examined or audited in such manner as the Local Government from time to time prescribes.

The committee shall also submit, at such time and in such form as may be directed by the Local Government, an estimate of their probable receipts for the financial year next following, with proposals for their expenditure.

An abstract of such estimate and proposals shall, on being so submitted, be published in such manner as the Local Government from time to time directs.

Rules as to cost and class of works.

37. The Local Government may from time to time make rules consistent with this Act, as to the cost and the class of works which the committee may execute, and the committee shall be legally bound to obey such rules.

Public Highways.

38. All public highways in any municipality in which this Act is in force, not specially reserved by Government, together with all erections thereon and all materials thereof, shall be vested in and belong to the committee.

Right of committee in public highways.

Land required for Public Purposes.

39. When any land within the limits of any municipality to which this Act is extended is required for the construction or improvement of a highway, for the promotion of the healthiness of the neighbourhood, or for any other public purpose, if the committee cannot agree with the owner for the purchase thereof, the Local Government, on the recommendation of the committee, may notify in the local official Gazette that such land is required under the provisions of the Land Acquisition Act, 1870;

and, on payment by the committee of the compensation awarded under such Act, the land shall vest in them for the purposes of this Act.

Acquisition of land for municipal purposes.

Suits by and against Committees.

40. Every committee shall sue and be sued in the name of their president.

Suits by and against committees.

41. No member of a committee shall be personally liable for any contract made or expense incurred by or on behalf of the committee, but the funds from time to time in the hands of the committee shall be liable for and chargeable with all contracts made in the manner above provided for.

Members not personally liable for contracts made by committee.

42. Every member of a committee shall be liable for any misapplication of money entrusted to the committee to which he has been a party, or which happens through, or is facilitated by, the neglect of his duty; and he shall be liable to be sued for the same in such Court as the Local Government directs, as for money due to Government.

Liability of members for breach of trust.

43. No suit shall be brought against a committee or any of their officers, or any person acting under their direction, for anything done under this Act, until the expiration of one month next after notice in writing has been delivered or left at the office of the committee, or at the place of abode of such person, stating the cause of suit and the name and place of abode of the intending plaintiff.

Notice previous to suing committee or their officers.

Unless such notice be proved, the Court shall find for the defendant.

Every such suit shall be commenced within three months next after the accrual of the cause of suit and not afterwards.

If any person to whom any such notice is given shall, before suit is brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover.

CHAPTER VI.

Penalties and Prosecutions and Recovery of Taxes.

Penalty on member or servant of committee being interested in contracts made with committee.

44. No member of a committee, or servant of a committee, shall be interested directly or indirectly in any contract made with the committee, and if any such person be so interested, he shall thereby become incapable of continuing in office or in employment as such member or servant, and shall be liable to a fine of five hundred rupees:

Provided that no person shall by reason of being a shareholder in or member of any incorporated or registered company be deemed interested in any contract entered into between such company and the committee.

Penalty for infringement of rules or non-payment of fines.

45. Whoever infringes any rule made by a committee and confirmed as directed in this Act, shall be liable to a fine not exceeding fifty rupees, and in the case of a continuing infringement, to a fine not exceeding five rupees for every day after notice from the committee of such infringement.

In default of payment of any fine imposed under this section, the defaulter shall, in the case of a continuing infringement, be liable to imprisonment for a term not exceeding one month; and in any other case, to imprisonment for a term not exceeding eight days.

Prosecutions.

46. Prosecutions under this Act for infringements of rules may be instituted before any Magistrate by the committee or any person authorized by the committee in this behalf.

Recovery of taxes.

47. All arrears of taxes imposed under this Act may be recovered as if they were fines, in the manner prescribed in section 307 of the Code of Criminal Procedure.

THE EUROPEAN BRITISH MINORS ACT, 1874.

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SCHEDULE OF FORMS.

ACT No. XIII OF 1874.

Received the Governor General's assent on the 8th of December 1874.

An Act to provide in the Panjáb and elsewhere for the guardianship of European British Minors.

Preamble.

WHEREAS it is expedient to provide in the Panjáb, Oudh, the Central Provinces, British Burma, Coorg, Ajmer and Mairwára and Assam for the guardianship of minors who either are born in the United Kingdom or any British colony, or are the children or grandchildren of persons so born; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

Short title.

1. This Act may be called "The European British Minors Act, 1874:"

Local extent.

It extends to the territories respectively subject to the government of the Lieutenant Governor of the Panjáb and to the administration of the Chief Commissioners of Oudh, the Central Provinces, British Burma, Coorg, Ajmer and Mairwára and Assam;

Personal application.

So far as relates to minors, it applies only to persons born in the United Kingdom of Great Britain and Ireland, or any British colony, plantation or settlement other than British India, and to their children and grandchildren;

Commencement.

And it shall come into force at once.

Interpretation-clause.

2. In this Act—

'Minor.'

'Minor' means a person who has not completed the age of eighteen years:

'Guardian.'

'Guardian' means a person who is appointed to take care of a minor's person or property, or both; and

'Court' means the highest civil Court of appeal in any territory (other than British Burma) to which this Act extends. 'Court.'

In British Burma 'Court' means, in the town of Rangoon, the Court of the Recorder of Rangoon, and, elsewhere, the Court of the Deputy Commissioner.

PART II.

Appointment of Guardians.

3. A guardian of the person or property, or both, of any minor may be appointed by will or other instrument to take effect upon the death of the parent appointing— Appointment by parent.

(*a*) if the minor is legitimate, by the father, or by either parent if the other is dead or incapable of acting;

(*b*) if the minor is illegitimate, by the mother.

4. If the Court within the local limits of whose jurisdiction any minor resides finds that the guardianship of his person or property has not been sufficiently provided for under section 3, the Court may appoint a guardian of his person or property, or both, as the case may be. Appointment by Court.

If the minor has several properties, the Court may, if it think fit, appoint a guardian for each such property.

If the Court appoints a guardian for any property situate beyond the local limits of its jurisdiction, the Court within the local limits of whose jurisdiction such property may be situate shall accept such guardian as duly appointed and give effect to the order appointing him.

5. Whoever desires to be appointed the guardian of a minor's person or property, or both, may apply to the Court within the local limits of whose jurisdiction the minor resides by petition setting forth the grounds of his application, and showing— Application for appointment.

(*a*) the minor's age and residence;

(*b*) the nature and amount of his property;

(*c*) what relatives he has in India or elsewhere, and

(*d*) the qualifications of the proposed guardian and his willingness to act as such.

The petition shall bear a stamp of five rupees, and the statements therein contained shall be verified by the petitioner or some other competent person in manner required by law for the verification of plaints, and may at the hearing be referred to as evidence. Stamp. Verification.

The Court, if satisfied that there is ground for proceeding, shall give notice of the application to the person (if any) named in the petition as Notice of application.

having the custody or being in possession of the person or property of such minor, as well as to any other person whom the Court may think should receive such notice, and shall fix as early a day as may be convenient for the hearing of the petition.

Production of minor.

6. The Court may direct that the person (if any) having the custody of such minor shall produce him at such place and time as may be appointed by the Court, and may make such order for the temporary custody and protection of the minor's person or property as may appear proper.

Evidence of fitness.

7. On the day fixed for the hearing of the petition or as soon after as may be practicable, the petitioner shall adduce evidence to shew the fitness of the proposed guardian;

and the Court shall make such order as it thinks fit in respect to the guardianship of the minor's person or property, or both, and the costs of the case.

Procedure.

8. In cases instituted under this Act, the Court shall be guided by the procedure prescribed in the Code of Civil Procedure in so far as the same is applicable; and any order made by the Court under section 6 or section 7 may be enforced as if such order had been made in a regular suit or on appeal; and all orders made under this Act by Deputy Commissioners in British Burma shall be appealable as if they were decrees.

The forms set forth in the schedule hereto annexed, with such variation as the circumstances of each case require, may be used for the respective purposes mentioned in such schedule.

Subsidiary rules.

And the Court may from time to time prescribe rules consistent with this Act, for regulating the procedure hereunder:

Provided that, in the case of Courts of Deputy Commissioners in British Burma, such rules shall be prescribed by the Judicial Commissioner.

Orders under Act not to be contested.

9. Save as provided by section 8, no order passed under this Act in respect to the guardianship of a minor's person or property shall be liable to be contested in any other proceeding.

Rules for awarding custody of

10. In appointing the guardian of a minor, the Court shall be guided by the following considerations:—

(*a*)—By what appears to be for the best interest of the minor in respect to his temporal and his mental and moral welfare; and if the minor is old enough to form an intelligent preference, the Court may consider that preference:

(*b*)—As between parents adversely claiming the custody or guardianship, neither parent is entitled to it as of right; but if, other things being equal, the minor is of tender years, he should be given to the mother: if he is of an age to require education and preparation for labour and business, then to the father:

(*c*)—The Court shall also consider the following circumstances according as they may bear upon the guardianship of person or of property :—

(1) Nearness of relationship;

(2) The wishes of a deceased parent;

(3) Any existing or previous connection of the proposed guardian with the minor's person or property.

PART III.

Guardians' Duties, Rights and Liabilities.

A.—Guardians of the Person.

11. A guardian of the person is charged with the custody of the ward, and must look to his support, health and education. **Duties of guardian of the person.**

12. A ward is presumed to be of his father's religion; and the guardian, in the absence of the Court's direction to the contrary, must train the ward in such religion. If the ward is old enough to form an intelligent preference for any religion, the Court, in giving such direction, shall attend to such preference. **Ward's religion.**

13. Any ward who may desert his home may be compelled by order of the Court to return. But such order may be withheld by the Court if it appear— **Guardian entitled to custody of ward.**

(*a*) that the ward has been subjected to maltreatment at the hands of his guardian;

(*b*) that the conduct of the guardian in other respects renders him unfit for the office, or

(*c*) that the ward is on reasonable grounds unwilling to return and is old enough to form an intelligent preference on such a subject.

14. No guardian of the person appointed by the Court shall, without the leave of the Court, remove its ward from the limits of its jurisdiction. **Removal of ward from jurisdiction.**

Any person wilfully contravening this prohibition shall be liable by order of the Court to fine not exceeding one thousand rupees, or to imprisonment for a term which may extend to six months, or to both.

B.—Guardians of Property.

15. A guardian of the property shall keep safely the property of his ward. **Duties of guardian of property.**

In the case of immoveable property, he shall not suffer any waste, but shall maintain the buildings (if any) thereon and their appurtenances out of the rents and profits of the property. **Prohibition of waste.**

16. The guardian of any immoveable property may make leases for any term not exceeding a year, or from year to year, of such property or any part thereof; and with the sanction of the Court, may make such lease of the property, or any part thereof, for such term of years and subject to such rents **Power to lease.**

and covenants as the Court may direct; but in no such case shall any fine or premium be taken.

The lease shall be settled by an officer of the Court, and a counterpart thereof shall be executed by the lessee, and shall be deposited for safe custody in the Court until the ward completes the age of eighteen years; but all proper parties shall have the use thereof, if necessary, for the purpose of enforcing any covenant therein contained.

Power to use principal for ward's maintenance, &c.

17. The Court may order that the principal of the ward's property, or any part thereof, shall be applied for his maintenance, education or advancement, and the guardian of such property shall obey such order.

Rules as to guardians of property.

18. Every guardian of the property of a minor shall—

(*a*) give such security, if any, as the Court thinks fit duly to account for what he shall receive in respect of the minor's property;

(*b*) pass his accounts at such periods and in such form as the Court directs;

(*c*) pay the balance due from him thereon;

(*d*) be entitled to such allowance, if any, as the Court thinks fit for his care and pains in the execution of his duties;

(*e*) be responsible for any loss occasioned to the property by his wilful default or gross negligence.

C.—As to all Guardians.

Minor guardians incompetent to act.

19. No person appointed a guardian shall be competent to act as such unless he has completed the age of eighteen years.

Guardian under control of Court.

20. Every guardian, whether appointed by a parent or under this Act by a Court, is subject to the control of the Court within the local limits of whose jurisdiction he resides.

Death of joint guardian.

21. On the death of one of two or more joint guardians, whether appointed by a parent or under this Act, the power continues to the survivor or survivors until a further appointment is made by the Court.

Removal of guardian.

22. A guardian may be removed by the Court for any of the following causes:—

(*a*) for abuse of his trust;

(*b*) for continued failure to perform its duties;

(*c*) for incapacity to perform its duties;

(*d*) for gross immorality;

(*e*) for having an interest adverse to the faithful performance of his duties;

(*f*) for removal from the local limits of the jurisdiction of the Court;

(*g*) the arrival within such local limits of some person whose guardianship the Court may think likely to be more beneficial to the minor than the guardianship of the person so removed;

(*h*) in the case of a guardian of the property, for insolvency.

In any such case the Court may appoint a successor to the guardian so removed. **Appointment of successor.**

23. Any guardian, whether appointed by a parent or by the Court, desiring to resign his office may apply to the Court to discharge him, **Resignation of guardian.**

and if the Court finds that there is some other proper person whom it may appoint to such guardianship, it shall discharge the guardian accordingly and appoint such other proper person in his place.

24. Applications for appointments under section 22 or section 23 shall be made in manner provided in section 5; and the procedure thereon shall be in accordance with section 7. **Application for appointment on guardian's removal or resignation.**

25. The power of a guardian of the person ceases— **Close of authority of guardian.**

(*a*) by his removal or discharge;

(*b*) by the ward's attaining majority, and,

(*c*) in the case of a female ward, by her marriage followed by cohabitation.

The power of a guardian of the property ceases—

(*a*) by his removal or discharge;

(*b*) by the ward's attaining majority.

SCHEDULE.

I.—Petition for Appointment of Guardian.

(*See section* 5.)

In the Chief Court of the Panjáb [*or* In the Court of the Recorder of Rangoon, *or as the case may be*].

In the matter of *A. B.*, a minor, by *C. D.*, his next friend.

To Mr. Justice (*or as the case may be*).

The petition of *C. D.* of

Sheweth—

1. The said *A. B.* is now of the age of years and upwards. He is the same person as '*A.*, son of *C.* and *L. B.*,' named in the paper-writing now produced and shown to me and marked *A*, and purporting to be a copy under the seal of the General Register Office of the entry No. in the certified copy of entries of births in the district of *D*, in the county of *L*, for the year 187 .

2. The said *A. B.* is absolutely entitled, under the will of *his maternal uncle E. F.*, late of (*residence and addition*) to the following properties (namely) :—

(*a*) a house in let to *N. O.* as yearly tenant at Rs. 1,000 a year.

(*b*) Rs. 20,000 in the four per cent. securities of the Government of India, standing in the names of *R. S.* and *T. W.*, the trustees of the will of the said *E. F.*

(*c*) Rs. 800 cash in the hands of the said *R. S.* and *T. W.*, arisen from dividends on the said stock.

3. The only relations of the said *A. B.* now living are—(*a*), your petitioner, his maternal uncle; (*b*)—*S. H.*, wife of *T. H.* of (*residence and addition*), the half-sister of the said *A. B.*, and (*c*)—*R. D. V.*, the half-brother of the said *A. B.*, who is a Captain in Her Majesty's Army, and now stationed at Bombay.

4. The said *A. B.* was, at the time of the death of his father, *C. B.*, which happened on the 187 , and is now, residing as a scholar at Bishop Cotton's School, Simla, in the custody of the Rev. *M. N.*, the head master.

5. Your petitioner [*here state his qualifications as guardian, e. g., that he has attained his majority, is married, has children, resides with his family at some reasonably healthy place, mentioning it, holds a responsible office, stating it*], and is willing to act as the guardian of the person and property [*or as may be*] of the said *A. B.* during his minority in case this Hon'ble Court shall think fit to appoint me to that office.

Your petitioner therefore prays this Hon'ble Court—

1. That your petitioner or some other proper person may, upon giving security, be appointed the guardian of the person and property of the said *A. B.* during his minority, or until further order.

2. And that the said *C. D.* or other such guardian may from time to time pass his accounts and pay the balances which shall be certified to be due from him into the Government Treasury to the credit of this matter, and that such balances may be laid out in securities of the Government of India, or in loans or bonds secured by the Imperial Parliament on the revenues of India, or in debentures of railways guaranteed by the Government of India, and the interest to accrue thereon and all accumulations of interest be laid out in like manner.

3. And that the costs of this petition may be taxed as between attorney and client; and that the said *C. D.* or other such guardian may retain and pay the same out of any monies of the said minor which may come to his hands and be allowed the same on passing his said accounts.

(*Signed*) *C. D.*

Form of Verification.

(*See section* 5.)

I, *C. D.*, the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

II.—Affidavit of Fitness of Guardian.

(*See section* 7).

In the Chief Court, &c., (*or as the case may be*).

In the matter of *A. B.*, a minor, by *C. D.*, his next friend.

I, *E. F.*, of (*residence and addition*), make oath and say as follows:—

1. I know and have for years past been well acquainted with *C. D.*, the petitioner in this matter.

2. The said *C. D.* is married and has children, namely, a son of the age of years and daughters of the respective ages of and years.

3. The said *C. D.* resides with his wife and children at

4. In my judgment and belief the said *C. D.* is a fit and proper person to be appointed guardian of the person and property of his nephew, the said minor *A. B.*, for the following reasons (*state them*):—

Sworn at , this day of 187 , before me.

E. F.

(*Official character and description of E. F.*)

III.—Recognizance by a Guardian of property and his surety, after an order appointing him subject to his giving security.

Stamp as in case of a bond.

(*Short title.*)

The senior Judge of the Chief Court of the Panjab [*or as the case may be*] has approved of and allowed this recognizance.

X. Y.,
Registrar.

C. D., (*the principal*), of (*residence and addition*), and *L. M* (*the surety*) acknowledge themselves and each of them acknowledges himself to owe to the Secretary of State for India in Council the sum of Rs. [*to be regulated by the sum which the guardian is likely to receive during the currency of his periodical account*] to be paid to the said Secretary of State for India in Council; and unless they pay the same, they, the said *C. D.* and *L. M.*, do and each of them doth grant for himself, his executors and administrators that the said sum shall be levied and received from them and each of them and from their and his moveable and immoveable property.

Dated the day of 187 .

WHEREAS, by an order of the Court of , made by (*name the Judge*), in a certain matter there depending, intituled 'In the matter of ' [*recite the order appointing the guardian, subject to his giving security and continue thus*] :—

And whereas (*name the Judge who has approved of the surety and recognizance*) has approved of the above-bounden *L. M.* as surety for the said *C. D.*, and hath also approved of the above-written recognizance with the underwritten condition as a proper security to be entered into by the said *C. D.* and *L. M.* pursuant to the said order, and in testimony of the said approbation, the Registrar [*or as the case may be*] of the said Court hath signed an allowance in the margin thereof.

Now the condition of the above-written recognizance is such, that if the said *C. D.* shall duly account for every sum of money which he shall receive on account of the property of the said minor *A. B.* and the rents and profits and other income thereof, at such periods as the said Judge shall appoint, and shall duly pay the balances which shall from time to time be certified to be due from him as the said Court or Judge hath directed, or shall hereafter direct, then the above recognizance shall be void, otherwise the same shall remain in force.

C. D. } Taken and acknowledged by the above-named *C. D.* and *L. M.*,
L. M. } at in this day of 187 before me.

(*Signature and style of office of the officer by whom the recognizance is taken.*)

THE OUDH LAND REVENUE ACT, 1876.

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ACT No. XVII OF 1876.

Received the Governor General's assent on the 10th of October 1876.

An Act to consolidate and define the law relating to Land-revenue in Oudh.

Preamble.

WHEREAS it is expedient to consolidate and define the law relating to land-revenue in Oudh; It is hereby enacted as follows:—

CHAPTER I.—PRELIMINARY.

Short title.

1. This Act may be called "The Oudh Land-revenue Act, 1876:"

Local extent.

It extends only to the territories now under the administration of the Chief Commissioner of Oudh;

Commencement.

And it shall come into force on the passing thereof.

But all rules now in force and relating to any of the matters hereinafter dealt with shall, so far as they are consistent with this Act, continue in force until they are superseded by rules made in exercise of the powers hereinafter conferred.

Interpretation-clause.

2. In this Act, unless there be something repugnant in the subject or context—

"Incumbrance."

"incumbrance" means a charge upon or claim against land arising out of contract between private persons:

"Agricultural year."

"agricultural year" means a year commencing on the first day of July and ending on the thirtieth day of June:

"Revenue officer."

"revenue officer" means any officer empowered by or under this Act to dispose of any matter connected with the land-revenue:

"Revenue-free."

"revenue-free" or "free of revenue" applies to land whereof the revenue has been wholly or in part released, compounded for, redeemed or assigned.

CHAPTER II.—REVENUE OFFICERS.

Chief Controlling Revenue Authority.

3. The Chief Controlling Revenue Authority in all matters connected with land-revenue in Oudh shall be the Chief Commissioner.

Commissioners of Division.

4. Subject to such rules as the Governor General in Council may from time to time prescribe in this behalf, the Chief Commissioner shall—

(*a*) appoint in each Division a Commissioner, who shall, subject to the control of the Chief Commissioner, exercise authority over all the Revenue Officers in his Division:

(*b*) appoint in each district an officer who shall be the Deputy Commissioner of the district:

Deputy Commissioner of the district.

(*c*) appoint to each district as many other persons as he thinks fit to be Assistant Commissioners of the first or of the second class.

Assistant Commissioner.

Subject to such rules as the Governor General in Council may from time to time prescribe in this behalf, the Chief Commissioner may suspend or remove any officer appointed under this section.

5. All such Assistant Commissioners, and all other persons employed in maintaining revenue-records or otherwise in or about the business of the land-revenue, shall be subordinate to the Deputy Commissioner of the district.

Subordination of Assistant Commissioners and other Revenue Officers.

6. The Chief Commissioner may place any Assistant Commissioner of the first class in charge of one or more sub-divisions of a district, and may at any time remove him therefrom.

Assistant Commissioner in charge of sub-division of district.

Such Assistant Commissioner shall be called an Assistant Commissioner in charge of a sub-division of a district, and shall exercise the powers and discharge the duties conferred and imposed upon him by this Act or by any other law for the time being in force, subject to the control of the Deputy Commissioner of the district.

The Chief Commissioner may, from time to time, delegate[a] his powers under this section to the Deputy Commissioner of the district, and may revoke such delegation.

7. Subject to such rules as the Governor General in Council from time to time prescribes in this behalf, the Chief Commissioner may confer on any Assistant Commissioner in charge of a sub-division of a district all or any of the powers of a Deputy Commissioner; and all powers so conferred shall be exercised subject to the control of the Deputy Commissioner of the district.

Power to invest certain Assistant Commissioners with powers of Deputy Commissioner.

8. Every officer of a sub-division of a district employed in maintaining revenue-records or otherwise in or about the business of the land-revenue shall be subordinate to the Assistant Commissioner (if any) in charge of such sub-division, subject to the general control of the Deputy Commissioner of the district.

Subordination of Revenue Officers.

9. Subject to such rules as the Governor General in Council from time to time prescribes in this behalf, the Chief Commissioner may confer upon any person all or any of the powers of an Assistant Commissioner of the first or of the second class, and may, in conferring those or any other powers under this Act, empower persons by name, or classes of officials generally by their

Conferring of powers.

Power to vary and cancel orders conferring powers.

[a] See *Oudh Gazette*, 28th October 1876, p. 73.

official titles, and may vary or cancel any order conferring powers under this Act.

Transfer of cases to subordinates.

10. The Deputy Commissioner of the district, or any Assistant Commissioner in charge of a sub-division of a district, may make over any case, or class of cases, arising under the provisions of this Act or otherwise, for enquiry or decision, from his own file to any of his subordinates competent to deal with such case or class,

Power to withdraw cases from subordinates.

or may withdraw any such case or class of cases from any Revenue Officer subordinate to him, and may deal with such case or class himself, or refer the same for disposal to any other such Revenue Officer competent to deal therewith.

Deputy Commissioner of the district in case of temporary vacancy.

11. If the Deputy Commissioner of the district dies, or is disabled from performing his duties, the officer who succeeds temporarily to the chief executive administration of the district in revenue-matters shall be held to be the Deputy Commissioner of the district under this Act until the Chief Commissioner appoints a successor to the Deputy Commissioner so dying or disabled, and such successor takes charge of his appointment.

Powers of officers transferred to another district.

12. Whenever any person holding an office in the service of Government, who has been invested with any powers under this Act in any district, is transferred to an equal or higher office of the same nature within another district, he shall, unless the Chief Commissioner otherwise directs, be held to be invested with the same powers in the district to which he is so transferred.

Appointment of tahsíldárs.

13. Tahsíldárs shall be appointed by the Chief Commissioner, subject to such rules as to qualification or otherwise as the Chief Commissioner may from time to time make under section 220.

CHAPTER III.—Settlement.

Notification as to settlement.

14. Whenever the Chief Commissioner thinks that any district or other local area liable to be brought under settlement should be so brought, he shall, with the previous sanction of the Governor General in Council, publish a notification to that effect.

Notification as to settlement-record.

And if he thinks that a settlement-record should be prepared for any district or other local area, he shall, with the like sanction, publish a notification to that effect.

Chief Commissioner to issue rules as to mode of assessment.

15. The Chief Commissioner shall from time to time, with the previous sanction of the Governor General in Council, frame and issue rules regarding the mode in which the revenue-demand in respect of any local area is to be assessed; and may from time to time make rules prescribing the manner in which Settlement Officers shall report for sanction the rates and method of assessment and the amounts they propose to assess.

16. The Chief Commissioner shall, with the previous sanction of the Governor General in Council, determine what documents shall form the settlement-record, and frame and issue rules regarding (*a*) the mode in which such record is to be prepared, (*b*) the facts to be therein entered, and (*c*) the manner in which the entries shall be attested.

Settlement-record.

The Chief Commissioner may from time to time, with the same sanction, alter such rules.

17. Every entry in such settlement-record duly made and attested shall, until the contrary is proved, be presumed to be a correct record of the fact entered.

Presumption as to entries in settlement-record.

18. Every local area shall be held to be under settlement from the date of any notification published under section 14, and relating thereto, until the issue of another notification declaring settlement-operations to be closed therein.

Settlement to be deemed in progress until closing notified.

Every local area under settlement at the time of the passing of this Act shall be held to be under settlement within the meaning of this section without the issue of either of the notifications prescribed by section 14.

Settlements now in progress brought under operation of Act.

19. The Chief Commissioner may from time to time, with the previous sanction of the Governor General in Council, appoint an officer to be in charge of the settlement of any local area and as many Assistant Settlement Officers as the Chief Commissioner thinks fit; and such officers shall exercise the powers conferred on them respectively under this Act so long as such area is under settlement.

Appointment and powers of Settlement Officers.

20. In any local area in which a settlement of the land-revenue is in progress, the Chief Commissioner, with the previous sanction of the Governor General in Council, may by order confer on any officer making or controlling such settlement the powers of a Civil Court of any specified grade for the purpose of trying suits and appeals, or any specified class of suits and appeals, relating to property in land assessed or assessable to revenue, in such district, and may revoke any such order; and so long as such order remains in force the jurisdiction of the Civil Courts of the same grade shall be excluded in respect of such suits and appeals.

Power to invest Settlement Officers with powers of Civil Courts in certain cases.

21. Notwithstanding the existence of any such order, the Chief Commissioner may from time to time direct that any cases pending before the Settlement Officers invested with the powers mentioned in section 19, shall be transferred to the ordinary Civil Courts of the district if the state of business in his opinion requires such transfer.

Power to transfer cases from Settlement Officers to Civil Courts.

22. If a suit relating as well to such land as other property be instituted before any officer so invested, he shall make a reference regarding the disposal of such suit to the Commissioner of the Division in which the district wherein

Trial of suit relating to land and to other property.

the suit was instituted is included, who shall determine by what Court the suit shall be tried.

Powers of Settlement Officers as to erection of boundary-marks and decision of disputes.

23. When any local area is under settlement, the Settlement Officer shall have power to call upon all proprietors, by proclamation to be stuck up in some conspicuous place in each village, to erect, within fifteen days from a date to be fixed in the proclamation, such boundary-marks as he may think necessary to define the limits of that village, or the mahâls or fields contained therein; and in default of their compliance within the time specified in the notice, he may cause such boundary-marks to be erected, and he shall recover the cost of such erection from the proprietors as if it were an arrear of land-revenue.

In case of dispute concerning any boundary-marks, the Settlement Officer shall decide such dispute on the basis of possession, or may refer it to arbitration, for decision on the merits as provided for in sections 191 to 202, both inclusive.

Power of Settlement and Survey Officers to do necessary acts.

24. All Settlement Officers and all officers in charge of a survey made in connection with the revenue, and their assistants, servants, agents and workmen, may do all acts necessary for any purpose connected with the settlement or survey, as the case may be.

Power to require attendance of persons concerned, and production of documents.

25. The Settlement Officer may order all persons whose presence is in his opinion necessary for any of the purposes of this chapter to attend at any specified time and place, and to produce any written document in their possession or power; and all such persons shall be legally bound to obey such order.

With whom settlement to be made.

26. The settlement shall be made

(*a*) in the case of a taluqdárí mahál with the taluqdár,

(*b*) in the case of other mahâls with the proprietor of the mahál; or if in any such mahál there are two classes of proprietors, superior and inferior, with either of such classes as the Chief Commissioner directs,

or if the taluqdár or proprietor has transferred possession of his mahál to a mortgagee or conditional vendee, then with such mortgagee or vendee.

Settlement of estate in possession of lunatic or minor.

If, at the time of settlement, a mahál, or any share thereof, be in the possession of a lunatic, minor or other person incapable of making a contract, the settlement shall be made on his behalf with his guardian or with the manager of his property.

Power to make joint settlement with several proprietors or their representatives.

27. When several persons are in possession of a mahál, not being a taluqdárí mahál, the Settlement Officer shall have power to make a joint settlement with all such persons, or with their representatives.

28. The Settlement Officer shall, in accordance with the rules made under section 15, frame general proposals of assessment for any local area or any portion thereof regarding which a notification has been published under the first clause of section 14, and shall report such proposals through the Commissioner of the Division to the Chief Commissioner.

Framing and reporting general proposals of assessment.

29. After the receipt of the orders of the Chief Commissioner thereon, and subject to such orders, the Settlement Officer shall ascertain the amount of the assessment proper for each mahál in such area, and shall declare the same to the person with whom the settlement of such mahál is to be made.

Detailed assessment and declaration thereof to persons concerned.

If any mahál in any such area comprise two or more villages, or portions of villages, the Settlement Officer shall declare the assessment due on each of such villages or portions of villages, together with the aggregate amount of the assessment proper in his opinion for the whole mahál.

Such declaration shall be made on a date to be notified by proclamation at the tahsíl in which such mahál is situate.

30. If the persons with whom the settlement of such mahál is to be made agree to the assessment so proposed, they and those (if any) whom they represent in interest shall become liable from the date of such agreement, or from such subsequent date as the Chief Commissioner directs, to pay such assessment in respect of such mahál;

Effect of agreement to assessment proposed.

and in a mahál in which the land, or part of the land, is held in severalty, the Settlement Officer shall distribute such assessment on the lands so held.

Distribution of assessment.

31. In any mahál where, by the established custom, the land or the amount of revenue payable by each co-sharer is subject to periodical re-distribution or re-adjustment, the Settlement Officer may, on application of one or more of the co-sharers, enforce such re-distribution or re-adjustment according to such custom.

Enforcement of custom as to re-distribution of land and adjustment of revenue of shares.

32. If the person to be settled with be a taluqdár, and such taluqdár refuse to accept the assessment offered by the Settlement Officer in respect of his entire taluqá, or in respect of any portion thereof, or if, within thirty days from the date of the declaration by the Settlement Officer under section 29, such taluqdár fail to accept such assessment, the Settlement Officer shall report the case through the Commissioner of the Division to the Chief Commissioner.

Exclusion of taluqdár declining or failing to accept settlement.

The Chief Commissioner, after hearing and considering the reasons which the taluqdár may have to urge against the assessment, may direct that the taluqdár so refusing or failing be excluded from the settlement of his entire taluqá, or of any portion thereof, for such term, not exceeding fifteen years

from the date of such direction, as the Chief Commissioner shall fix; and the Settlement Officer or Deputy Commissioner shall either farm the taluqá or any portion thereof or hold it under direct management during such term, or any part thereof: provided that no taluqdár shall be excluded from the settlement of his entire taluqá without the previous sanction of the Governor General in Council.

Offer of farm to under-proprietor.

33. If a taluqdár be excluded from the settlement of any portion of his taluqá, and if such portion be held in sub-settlement by an under-proprietor, the farm of such portion shall be offered to such under-proprietor on such terms as the Chief Commissioner may in each case direct.

Allowance to excluded taluqdár.

34. If such under-proprietor accept the assessment so offered, the taluqdár so excluded shall be entitled to an allowance out of the profits of such portion, to be fixed by the Chief Commissioner, not exceeding the share of the gross assets, if any, to which he would have been entitled had he accepted the assessment.

In other cases, the taluqdár so excluded shall (subject to the orders of the Chief Commissioner) be entitled to an allowance out of the profits of such portion, of not less than five or more than fifteen per cent. on the amount proposed to be assessed thereon.

Exclusion of person declining or failing to accept settlement in a mahál.

35. In a mahál other than a taluqdárí mahál, if the person to be settled with refuse to accept the assessment offered by the Settlement Officer, or fail to accept such assessment within thirty days from the date of the declaration by the Settlement Officer under section 29, the Settlement Officer shall report the case through the Commissioner of the Division to the Chief Commissioner,

and the Chief Commissioner may direct that the person so refusing or failing be excluded from the settlement for such term, not exceeding fifteen years from the date of such direction, as the Chief Commissioner thinks fit,

and the Settlement Officer or the Deputy Commissioner may, with the previous sanction of the Chief Commissioner, either farm the mahál or hold it under direct management during such term or any part thereof.

Allowance to person excluded.

In such case the person so excluded shall be entitled (subject to the orders of the Chief Commissioner) to an allowance out of the profits of the mahál, of not less than five or more than fifteen per cent. on the amount proposed to be assessed thereon.

Procedure in case of some of several proprietors refusing assessment.

36. If, in a mahál held on a pattídárí or imperfect pattídárí tenure, any of the co-sharers refuse or fail within thirty days from the date of the declaration by the Settlement Officer under section 29 to accept the proposed assessment, the shares of such co-sharers shall be dealt with under the provi-

sions of section 35, and they shall receive an allowance, as provided in that section, in proportion to their respective shares in the mahál.

If the Settlement Officer farms any share in such mahál, the farm of such share shall be offered in the first instance to those co-sharers who have accepted the proposed terms.

Farm of shares of proprietors refusing.

37. Any proprietor excluded from settlement under sections 35 and 36 shall be entitled to hold as a tenant with a right of occupancy so much of the land in the mahál actually cultivated by him as the Settlement Officer may determine, and the rent to be paid by such proprietor for such land during such exclusion shall be fixed by the Settlement Officer at the rate which would have been paid by a tenant-at-will for the said land less four annas in the rupee.

Adjustment of rent of the sír-land of proprietors of mahál farmed under section 35 or 36.

38. The aggregate amount of any allowance assigned under section 35 or section 36 to any proprietor of a mahál who has been excluded from settlement, and of the difference between the rent fixed under section 37 and the rent which he would be liable to pay if he were a tenant-at-will, shall not be less than five or more than fifteen per cent. on the amount proposed by the Settlement Officer to be assessed on such mahál.

Amount of allowance to excluded proprietor, and of difference between rent fixed and rent payable by him if he were tenant-at-will.

39. On the expiration of the term fixed under section 32 or section 35, the settlement of such mahál, portion, or share comprised therein shall be offered by the Deputy Commissioner to the person then entitled to be settled with in respect of such mahál, portion or share, at such assessment for the remainder of the term of settlement of the district as the Chief Commissioner may direct.

Offer of settlement to excluded proprietor on expiry of term of exclusion.

And if such person refuse to accept the offer, the Deputy Commissioner shall report such refusal through the Commissioner of the Division to the Chief Commissioner, and such person may be excluded from settlement for such period, not exceeding the term of the settlement of the district, as the Chief Commissioner may direct, and the provisions of sections 32 to 38 (both inclusive) shall, so far as may be applicable, apply to his case.

Procedure on refusal.

40. The Settlement Officer shall, in accordance with the provisions of the Oudh Sub-settlement Act, 1866 [a], so far as they are applicable, determine the rent to be paid to the proprietor by all under-proprietors in a mahál, and by all holders of heritable, non-transferable leases, whose rent has not been fixed by contract.

Determination of rent payable to proprietor.

When the rent is so determined the co-sharers may at their option agree with the Settlement Officer that the rent shall be paid either by them collectively or by one of them on behalf of himself and the others. Whenever,

[a] See p. 57, *supra*.

whether before or after the passing of this Act, rent payable by such under-proprietors or lessees has been determined by a Settlement Officer or other competent authority, all the co-sharers shall be jointly and severally responsible for the payment to the proprietor of the rent so determined.

Nothing in this section applies to rent payable by a tenant with a right of occupancy.

Saving of liability for Government

41. All land shall be deemed liable to be charged with the payment of revenue to Government, unless some competent authority has declared it exempt from such payment. And no length of occupancy of any land, nor any grant of land made by the proprietor, shall release such land from such liability.

Enquiry into cases of land released from payment of revenue.

42. The Settlement Officer shall enquire into the case of all lands released, conditionally or for a term, from the payment of revenue, and shall assess such lands if it appear to him that the conditions have been transgressed or the term has expired.

Confirmation of settlement.

43. Every settlement shall be made subject to confirmation by the Governor General in Council.

Period for which settlement is to be made.

44. The Governor General in Council shall, at some time before confirming the settlement, fix the period for which the settlement is to be made. Such period shall be fixed with reference to the agricultural year.

Revision of assessment before confirmation.

45. The assessment of any mahál may be revised at any time before it is confirmed by the Governor General in Council, and in such case the revised assessment shall be proposed to the proprietors of such mahál, and the provisions of sections 23 to 40 (both inclusive) shall apply.

Alteration of Assessment during the Currency of a Settlement.

Annual enquiry as to revenue-free grants.

46. The Deputy Commissioner shall enquire annually into the cases of all land released from the payment of revenue conditionally, or for a term, or for the life of the grantee.

If the condition be broken, he shall report the case through the Commissioner of the Division to the Chief Commissioner for orders,

and if the term has expired, or (where the grant is for the life of the grantee) if the grantee has died, the Deputy Commissioner shall assess the land comprised therein, and shall report his proceedings through the Commissioner of the Division to the Chief Commissioner for sanction.

Assessment of land added by alluvion.

47. All land added by alluvion to a mahál is liable to assessment. Such land may be assessed and settled under rules to be framed under section 220.

Proportionate increase of rent payable by under-proprietor.

48. Where such land is held by an under-proprietor or lessee whose rent has been fixed by a Settlement Officer, such rent shall be increased proportionately to the increase of revenue effected by such assessment.

49. Where the revenue assessed on a mahál has, by order of the Chief Commissioner, been reduced or been wholly or in part remitted or suspended, and the land on account of which the revenue has been so reduced, remitted or suspended is in the possession of an under-proprietor or lessee whose rent has been fixed by a Settlement Officer or other competent authority, the Chief Commissioner may declare that such under-proprietor or lessee shall be entitled (where the revenue has been reduced or remitted) to a proportionate reduction or remission of the rent payable by him in respect of such land, or (where the revenue has been suspended) to a suspension of the payment of such rent for the time during which the revenue has been so suspended, and such under-proprietor or lessee shall thereupon be entitled accordingly.

Proportionate reduction or remission of rent payable by under-proprietor or lessee.

50. Assessments under sections 46 and 47 shall be made by the Deputy Commissioner in the same manner and with the same powers as if he were an officer in charge of a settlement.

Deputy Commissioner to have powers of officer in charge of settlement.

51. At any time during the currency of a settlement, the Chief Commissioner may, with the previous sanction of the Governor General in Council, invest any officer with all or any of the powers of an officer in charge of a settlement under this Act, within such limits, and with such restrictions, and for such period, as he thinks fit;

but not so as to enable him to enhance the total amount of revenue payable on account of any mahál, except in respect of land added thereto or becoming liable to payment of revenue since the confirmation of the settlement.

Power to invest officer with Settlement Officer's powers.

Resumption of Rent-free Grants.

52. All grants (whether in writing or otherwise) by proprietors, or the persons whom they represent, of land to be held exempt from the payment of rent or at a favourable rate of rent, are hereby declared to be liable to resumption, unless such grants have been sanctioned or confirmed by the Governor General in Council or the Chief Commissioner:

Liability of rent-free grants to resumption.

Provided that, if such grants are held under a written instrument (whether executed before or after the passing of this Act) by which the grantor expressly agrees that the grant shall not be resumed, they shall be held valid against him (but not as against his representatives after his death) during the continuance of the settlement of the district in which the land is situate which was current at the date of the grant.

Grants under certain instruments.

53. Proprietors wishing to resume any grants mentioned in section 52 and made by themselves or the persons whom they represent shall apply by petition to the principal Court of original civil jurisdiction of the district

Application for declaration of such liability.

in which the land is situate for a declaration of the liability of the grant to resumption.

The Court shall cause notice of such application to be served on the grantee, and shall fix a day for hearing his objections (if any) to the declaration; and thereupon, after considering such objections (if any), may either dismiss the application with or without costs to be paid by the applicant, or declare that the grant is liable, in whole or in part, to resumption.

Procedure where grant made in lieu of right, but not sanctioned or confirmed.

54. If the Court find that the grant has been made in consideration of the loss or surrender of a right previously vested in the grantee, but has not been sanctioned or confirmed as mentioned in section 52, the Court shall refer the case to the Chief Commissioner, who shall make such order in the case as he thinks fit.

Exemptions from sections 52 and 53.

55. Nothing in section 52 or section 53 applies to either of the following cases:—

(*a*) where land is held rent-free under a judicial decision;

(*b*) where previously to the passing of this Act, land held rent-free has been acquired for a valuable consideration and the right to resume it has been barred by the law of limitation.

CHAPTER IV.—Registration, including the Preparation and Maintenance of Revenue-records.

Lists and registers to be prepared by Deputy Commissioner.

56. The Deputy Commissioner of the District shall, on the basis of the settlement-record, and in accordance with such rules as the Chief Commissioner from time to time prescribes in this behalf, prepare the following lists and registers:—

The pargana-register.

(*a*) a list of all the villages in each pargana or tahsíl of his district;

The málguzárí register.

(*b*) a list of all the revenue-paying maháls in each pargana or tahsíl, showing the revenue assessed on each mahál, and the name of the person responsible for its payment whether as sole proprietor or as lambardár;

The khewat.

(*c*) a register of all the co-sharers in each mahál with the nature and extent of the interest of each co-sharer;

Register of sub-settled maháls with khewat.

(*d*) a register of all maháls in which the rent of any under-proprietor or lessee has been fixed by the Settlement Officer, the names of all the co-sharers in such maháls, together with the nature and extent of the interest of such co-sharers;

Register of under-proprietary and other tenures.

(*e*) for each mahál a list—

(1) of all under-proprietors and lessees whose rent has been so fixed, and of all tenants with a right of occupancy, with the nature and extent of the interest of each such person, and the rent (if any) which he is liable to pay therefor,

(2) of all other persons (if any) holding land free of rent, or revenue-free;

(*f*) a register— Register of revenue-free tenures.

(1) of all land in his district held revenue-free, with the names of the holders, and the conditions of the grant under which they hold,

(2) of all land declared by competent authority to be waqf or nazul, or the property of the State;

(*g*) a register of all maháls on which a málikána-allowance has been sanctioned by competent authority, with the names of the persons entitled to such allowance, the amount of such allowance and the conditions under which it was given; The málikána register.

(*h*) a register of all jungle-grants, the names of the grantees, and the conditions of the grants. Register of jungle-grants.

57. In the preparation of the said lists and registers, the Deputy Commissioner shall correct any errors in the settlement-record which the parties interested admit to have been made therein; and any dispute arising regarding any entry in such record shall be investigated and decided on the basis of actual possession; and all persons not in possession, but claiming the right to be so, shall be referred to a Court of competent jurisdiction: Provided that, if the claim is founded on a decree of such Court, and if, when the claim is made, the decree is capable of execution, the entry shall be in accordance with such decree. Correction of errors in settlement-record.

58. The Deputy Commissioner shall keep and maintain the said lists and registers, Deputy Commissioner to keep lists and registers.

and he shall from time to time cause to be registered all events and transactions affecting any of the rights or interests recorded in the said registers, to such extent as the Chief Commissioner may from time to time prescribe.

59. The Chief Commissioner shall prescribe the forms in which the lists and registers mentioned in section 56 are to be prepared, Forms of lists and registers.

and the manner in which, the persons by whom, and the occasions on which, the alterations referred to in section 57 and section 58 are to be recorded.

60. The Chief Commissioner may prescribe proper fees for alteration in the lists and registers formed under the said rules: Provided that no fee for a single alteration shall exceed one hundred rupees. Power to prescribe fees for mutations.

Such fee shall be levied from the person in whose favour the mutation is made, and shall be expended in such manner as the Chief Commissioner thinks fit. Levy of fees. Fees how spent.

61. All persons obtaining the possession of land or the profits thereof, Notice of

transfer of possession.

whether by succession, purchase or other form of transfer, as proprietors or under-proprietors, or as lessees whose rents have been fixed by a Settlement Officer, or as mortgagees, shall give notice of the same immediately after it has taken place to the tahsíldár of the tahsíl in which the mahál to which such land belongs is situated, or to the Deputy Commissioner of the district.

If the notification be made to the tahsíldár, that officer shall report such notice to the Deputy Commissioner.

Enquiry as to truth of transfer.

62. The Deputy Commissioner, on receiving such notice or report, shall make such enquiry as the Chief Commissioner may from time to time prescribe, to ascertain the fact of the alleged transfer of the property, and if the transfer appears to have taken place, he shall, subject to the rules framed by the Chief Commissioner under section 220, record the same in the appropriate register:

Provided that no such entry shall be held to affect the rights of any other person who may claim and establish in any Court of competent jurisdiction any interest in the land to which the entry has reference.

Notification in case of minority or other disqualification.

63. If the person so succeeding is a minor or otherwise under disability, the guardian or other person who has charge of his property shall give the notice required by section 61.

Fine for neglect to notify.

64. Any person neglecting to give the notice prescribed in section 61 within three months from the date of the occurrence of the fact to be notified, shall be liable, at the discretion of the Deputy Commissioner, to a fine not exceeding five times the amount of the fee which would otherwise have been payable under section 60.

Power to put one party in possession in certain cases of dispute.

65. If in the course of enquiry made under section 62, a dispute regarding the possession of the property arises, and the Deputy Commissioner is unable to satisfy himself as to which party is in possession, he shall ascertain by summary enquiry who is the person *primâ facie* entitled to the property and shall put such person in possession, and make the necessary entry in the record accordingly, subject to any order that may be subsequently passed by the Civil Court.

Registry of transfers of interests in land other than those referred to in section 61.

66. When any person obtains possession of land or of the profits thereof, for any interest other than those referred to in section 61, the transfer of such possession shall be recorded in such manner as the Chief Commissioner from time to time directs;

Enquiry in disputed

and all disputed cases shall be reported to the Deputy Commissioner, who shall make such enquiry as may be necessary to ascertain the fact of the alleged transfer, and cause the record to be amended accordingly.

Inspection of registers.

67. All registers prepared under the preceding sections of this chapter shall be deemed to be public documents and the property of Government, and

shall be open to public inspection at such hours, and on such conditions as to fees or otherwise, as the Chief Commissioner may from time to time prescribe.

CHAPTER V.—Partition and Union of Mahâls.

Partitions.

68. Partition is either perfect or imperfect.

'Perfect partition.'

'Perfect partition' means the division of a mahâl into two or more mahâls, severally responsible for the revenue assessed on each.

'Imperfect partition.'

'Imperfect partition' means the division of any mahâl, or of any portion of a mahâl, into two or more portions jointly responsible for the revenue assessed on the whole mahâl.

Persons entitled to perfect partition.

69. Any recorded co-sharer in a mahâl, and any person in whose favour a decree has been passed by any Civil Court, awarding to him the proprietary right in a portion of a mahâl, whether such portion consists of a fractional share in the whole or a part of the mahâl, or of specific lands, is entitled to claim perfect partition of his share.

Any two or more recorded co-sharers may claim that their shares be divided from the other shares by a perfect partition, and be held by them as a single mahâl.

If any recorded co-sharer be under disability, the person in possession of his property shall, for the purpose of this section, be deemed to be a recorded co-sharer.

Application for perfect partition.

70. Applications for perfect partition are to be made in writing to the Deputy Commissioner of the district in which the mahâl is situated;

and shall be accompanied by a certified copy of the record, showing the share held by the applicant in the mahâl:

Provision as to estates situated in more than one district.

Provided that, if the mahâl be situated in two or more districts, the application may be made in any one of those districts, and the partition shall be made by such one of the Deputy Commissioners of those districts as the Chief Commissioner may direct.

Notification of application.

71. The Deputy Commissioner, on receiving an application for partition, shall, if the application be in order and not open to objection on the face of it, publish a notification of the same at his office, and at some conspicuous place in the mahâl to which the application relates,

Notice to co-sharers not joining.

and shall serve a notice on all such of the recorded co-sharers in the mahâl as have not joined in the application, requiring any co-sharer in possession who may object to the partition to appear before him to state his objection, either in person or by a duly authorized agent, on a day to be specified in the notice, not less than thirty, or more than sixty, days from the date on which such notice was issued.

Notification when alone sufficient.

72. Where, from any cause, notice cannot be personally served on any co-sharer, the notification so published shall be deemed sufficient notice.

Power to refuse partition when objection admitted.

73. If, on or before the day so specified, any objection is made to the partition by any co-sharer in possession, and the Deputy Commissioner, on a consideration of such objection, is of opinion that there is any good and sufficient reason why the partition should be absolutely disallowed, he may refuse the application, recording the grounds of his refusal.

Procedure if question of title be raised.

74. If the objection raises any question of title, or of proprietary right, which has not been already determined by a Court of competent jurisdiction, the Deputy Commissioner may either decline to grant the application until the question in dispute has been determined by a competent Court, or he may proceed to enquire into the merits of the objection.

In the latter case the Deputy Commissioner, after making the necessary inquiry and taking such evidence as may be adduced, shall record a proceeding declaring the nature and extent of the interests of the party or parties applying for the partition, and any other party or parties who may be affected thereby.

Procedure in such cases.

The procedure to be observed by the Deputy Commissioner in trying such cases shall be that laid down in the Code of Civil Procedure for the trial of original suits, and he may, with the consent of the parties, refer any question arising in such case to arbitration, and the provisions of chapter VI (relative to arbitrators) of the same Code shall apply to such references.

Reference to arbitration.

Deputy Commissioner's decision equivalent to decision of Civil Court. Appeal thereupon.

75. All orders and decisions passed by the Deputy Commissioner under the last preceding section, for declaring the rights of parties, shall be held to be decisions of a Court of civil judicature of first instance, and shall be open to appeal under the provisions of the Oudh Civil Courts Act.[a]

Appellate Court may stay partition.

Upon such appeal being made, the appellate Court may issue a precept to the Deputy Commissioner, desiring him to stay the partition pending the decision of the appeal.

Option to make partition themselves or to appoint arbitrators.

76. When it has been decided to make a partition under this chapter, the Deputy Commissioner shall either give the parties the option of making the partition themselves, or of appointing arbitrators for the purpose; or he shall make the partition himself or cause it to be made by any Assistant Commissioner subordinate to him, and when made by an Assistant Commissioner, it shall be reported to the Deputy Commissioner for his confirmation.

Partition by arbitrators.

77. If arbitrators are appointed, the provisions of sections 191 to 202, both inclusive, shall apply.

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[a] See p. 161, *supra*.

In making a partition, arbitrators shall not be bound by the provisions of sections 80 to 83, both inclusive; but they shall deliver a full and complete paper of partition, specifying the separate mahâls into which they propose that the mahâl shall be divided; the names of the parties to whom the several mahâls are proposed to be allotted, and the amount of land-revenue which in the opinion of the arbitrators should be assessed on each of such mahâls.

Power to enter on land for purposes of partition.

78. In making partitions, the Deputy Commissioner, and any person appointed by him, shall have the same powers to enter on the land under partition, for marking out the boundaries, surveying the mahâl and other purposes, as are conferred on Settlement Officers under this Act.

Power to hold mahâl under direct management pending partition.

79. When a Deputy Commissioner has decided that a partition shall be made, he may, with the sanction of the Commissioner, hold the mahâl under direct management pending the completion of the partition.

The provisions of the law in force for the time being for the management of mahâls held under direct management under section 119 for arrears of revenue, shall be applicable to mahâls the management of which is assumed under this section.

The collections of the mahâl shall be applied to the payment of the Government revenue, and, after defraying the expenses of management and any other expenses with which the mahâl is chargeable, the residue shall be divided amongst the recorded co-sharers, in proportion to their respective shares, at such periods as the Deputy Commissioner may see fit.

Partition of lands held only in severalty.

80. Where there are no lands held in common, the lands held in severalty by the applicant for partition shall be declared a separate mahâl, and shall be separately assessed to the Government revenue.

Partition of lands some of which are held in common.

81. Where some of the lands are held in common, the Deputy Commissioner shall allot to the applicant for partition his share of such lands in accordance with village-custom, if any such exist.

If no such custom exist, the Deputy Commissioner shall make such division as may secure to the applicant his fair portion of the common lands.

Formation of separate mahâls from shares allotted in partition.

82. The portion of the common lands falling by such partition to the share of the applicant shall be added to the land held by him in severalty, and the mahâls thus formed shall be assessed and declared separate mahâls.

Transfers to be effectuated in making partition.

83. In making partitions under this Act, the Deputy Commissioner shall give effect to any transfer of lands held in severalty and forming part of the mahâl, which has been agreed to by the parties previous to the declaration of the partition.

Partition

84. Where all the lands are held in common, the Deputy Commissioner

Where all lands held in common.

shall make such a partition as may secure to the applicant his fair share of the mahál.

Estate to be compact.

85. In all cases each mahál shall be made as compact as possible: Provided that, except with the sanction of the Chief Commissioner, no partition be disallowed solely on the ground of incompactness.

Rule when dwelling-house of one sharer is included in mahál assigned to another.

86. If in making the partition it be necessary to include in the mahál assigned to one sharer, the land occupied by a dwelling-house or other building in the possession of another co-sharer, such other co-sharer shall be allowed to retain it, with the buildings thereon (if any), on condition of his paying a reasonable ground-rent therefor to the sharer into whose portion it may fall.

The limits of such land, and the rent to be paid for it, shall be fixed by the Deputy Commissioner.

Rule as to tanks, wells, water-courses and embankments.

87. Tanks, wells, water-courses and embankments shall be considered as attached to the land for the benefit of which they were originally made.

Where, from the extent, situation or construction of such works, it is found necessary that they should continue the joint property of the proprietors of two or more of the maháls into which the mahál may be divided, the Deputy Commissioner shall determine the extent to which the proprietors of each mahál may make use of the said works, and the proportion of the charges for repairs of such works to be borne by such proprietors respectively, and the manner in which the profits, if any, derived from such works, shall be divided.

Rules as to places of worship and burial-grounds.

88. Places of worship and burial-grounds, held in common previous to the partition of a mahál, shall continue to be so held, unless the persons who so held them otherwise agree among themselves.

In such cases they shall state in writing the agreement into which they have entered, and such writing shall be filed with the record.

Determination of revenue payable by each division of a mahál.

89. In all cases, whether partition has been made by arbitrators or otherwise, the amount of revenue to be paid in respect of each portion of a mahál partitioned under this chapter shall be determined by the Deputy Commissioner, provided that the aggregate revenue payable in respect of the new maháls shall not exceed the revenue assessed on the mahál immediately before partition;

Liability of proprietors.

and the proprietor of each new mahál shall be held liable for the portion of the revenue assessed on his mahál, whether a new engagement be taken from him or not.

Power to stay partition.

90. If at any stage of any proceedings under this chapter there appears to be any reason for stopping the partition, the Deputy Commissioner may of his own motion, or on the report of the Assistant Commissioner making the partition, stay the partition and order the proceedings to be quashed.

Order con-

91. A partition, whether made by the Deputy Commissioner himself or

otherwise, shall not be deemed to be complete unless the Deputy Commissioner has made an order confirming it. **firming partition.**

On making such order, he shall publish a notification of the fact at his office and at some conspicuous place in each of the new maháls, **Notification of order.**

and the partition shall take effect on and from the first day of July next after the date of such notification. **Partition when to take effect.**

92. An appeal against the decision of the Deputy Commissioner confirming a partition, shall lie to the Commissioner of the division within one year from the date on which such partition takes effect. **Appeal to Commissioner from orders of Deputy Commissioner.**

93. Where the land-revenue is fraudulently or erroneously distributed at the time of the partition, the Chief Commissioner may, within twelve years from the time of discovery of the fraud or error, order a new allotment of the land-revenue upon the several maháls into which the mahál has been divided, on an estimate of the assets of each mahál at the time of the partition, to be made conformably to the best evidence and information procurable respecting the same. **Power to order new allotment of revenue on proof of fraud or error in first distribution.**

94. Imperfect partition shall be carried out according to the provisions of sections 69 to 92 (both inclusive) so far as they are applicable: Provided that no application for imperfect partition shall be entertained unless the consent of recorded co-sharers holding in the aggregate more than one moiety of the property of which partition is sought be first obtained. **Making of imperfect partitions.**

95. No Civil Court shall entertain any suit or application for perfect or imperfect partition. **Civil Courts barred from entertaining applications for partitions.**

96. All imperfect partitions and all partitions perfect or imperfect of under-proprietary maháls hitherto made, shall be deemed to have been made under the provisions of this Act. **Previous imperfect partitions and partitions of under-proprietary maháls.**

97. If two or more revenue-paying maháls have originally formed portions of the same village, the proprietor shall be entitled to have such maháls united and to hold them as a single mahál. **Union of maháls originally part of same village.**

98. Every application for the union of such maháls shall be made in writing to the Deputy Commissioner of the district in which the maháls are situate. **Application for such union.**

If the Deputy Commissioner see no objection, he shall comply with the application, and cause the necessary entries to be made in the register of his office, reporting the case to the Commissioner of the division. **Application how dealt with.**

99. The provisions of this chapter, so far as they are applicable, may be **Partition or**

union of revenue-free mahâls.

applied by order of the Deputy Commissioner to the partition or union of mahâls held free of revenue.

Partition of taluqdârí and under-proprietary mahâls.

100. The partition of taluqdârí and under-proprietary mahâls and of mahâls held by lessees whose rent has been fixed by the Settlement Officer or other competent authority, shall be carried out according to the provisions of sections 69 to 93 (both inclusive), so far as they are applicable.

Assignment of inferior mahâls.

(*a*) In the partition of taluqdârí mahâls, all mahâls, whether under-proprietary or held by lessees whose rent has been fixed by the Settlement Officer or other competent authority, shall, if practicable, be assigned to one or other of the new taluqás to be formed by the partition;

(*b*) if any such mahál cannot be assigned in whole, the assignment shall be made by thoks, pattís or other existent sub-divisions;

(*c*) and if no other satisfactory arrangement can be made, such mahál shall be partitioned;

(*d*) in cases in which one portion of any such mahál is assigned to one taluqá and another portion to another taluqá, each portion shall be deemed a separate mahál, the joint responsibility of the co-sharers being limited to such portion.

Objection to distribution of rental.

101. Whenever a partition of a mahál, whether under-proprietary or held by lessees whose rent has been fixed as aforesaid, is effected under this Act, the amount of rent to be paid in respect of each portion shall be determined by the Deputy Commissioner, and the person to whom such rent is payable may present an application in writing to the Deputy Commissioner objecting to the distribution of the rental over the several parts into which the mahál has been divided, and praying that such objection may be heard and determined; and his objection shall be heard and determined, and the Deputy Commissioner shall record his reasons for such determination.

CHAPTER VI.—Maintenance of Boundaries.

Power of Deputy Commissioner to enter and survey.

102. The Deputy Commissioner and his subordinates shall have power to enter upon and survey land, and to demarcate the boundaries of mahâls, villages and fields.

Obligations of owners as to boundary-marks.

103. All owners of mahâls, villages or fields, are bound to maintain and keep in repair at their own cost the boundary-marks lawfully erected thereon.

Payment for erasing, removing or injuring marks.

104. Any person convicted before a Deputy Commissioner of wilfully erasing, removing or damaging any such boundary-mark, may be ordered by the convicting officer to pay such sum, not exceeding fifty rupees for each mark so erased, removed or damaged, as may be necessary to defray the expense of

restoring such mark, and of rewarding the informer (if any) through whom the conviction was obtained.

105. Whenever the person erasing, removing or damaging any such mark cannot be discovered, or if for any other reason the sum which he has been so ordered to pay cannot be recovered, the mark shall be re-erected or repaired at the charge of the owner or owners of such one or more of the conterminous field or mahâls as to the Deputy Commissioner seems fit.

Who is to be charged for re-erection and repair when offenders not discoverable.

106. The Deputy Commissioner may decide, on the basis of possession, all disputes concerning boundaries, and may at any time direct the owners of mahâls, villages or fields, by written notice served upon them,

(*a*) to cause proper boundary-marks to be erected in such mahâls, villages or fields,

(*b*) to repair the boundary-marks lawfully erected in such mahâls, villages or fields.

Powers of Deputy Commissioner as to boundary-disputes and boundary-marks.

107. In default of compliance with such direction within fifteen days from the date of the service of the notice, the Deputy Commissioner shall cause such boundary-marks to be erected or repaired, as the case may be, and shall charge the cost of such erections or repairs to the owners of the conterminous mahâls, villages or fields in such proportion as he thinks fit.

Power to erect or repair boundary-marks.

CHAPTER VII.—Collection of the Land-revenue.

108. In the case of every mahâl the entire mahâl shall be charged with, and all the proprietors jointly and severally shall be responsible to Government for, the revenue for the time being assessed on the mahâl.

The term "proprietors" shall, for the purposes of this chapter, include all persons in possession for their own benefit.

Responsibility of proprietors of mahâl for land-revenue.

109. The Chief Commissioner may, from time to time, make rules as to the instalments in which, and the persons, places and times to whom and at which, the revenue payable in respect of any land shall be paid.

Chief Commissioner may make rules as to payment of revenue.

110. Until the issue of such rules the said revenue shall be paid in the instalments, to the persons, and at the times and places in which, to whom, and at which, it is now paid.

Payment until issue of rules.

111. Any sum not so paid becomes thereupon an arrear of revenue, and the proprietor responsible for it becomes a defaulter.

No interest shall be demanded on any arrear of land-revenue.

Effect of non-payment.

112. If the settlement of any land has been made with a lambardár, and if there be an arrear of revenue due in respect of such land, both the lambardár and the co-sharers of the mahâl from which the arrear is due shall be deemed defaulters.

Defaulters in case of settlements with lambardárs.

Evidence of arrear.

113. A statement of account certified by the tahsíldár shall, for the purposes of this chapter, be conclusive evidence of the existence of the arrear, of its amount, and of the person who is the defaulter.

Writ of demand.

114. When an arrear of land-revenue has accrued, a writ of demand or summons to appear may issue, calling on the defaulter to pay the amount within a time therein stated.

Arrest and detention of defaulter.

115. At any time after an arrear of land-revenue becomes due, such officer as the Chief Commissioner from time to time empowers in this behalf, may arrest the defaulter and detain him in custody for fifteen days, unless the arrear, together with the costs of arrest, is sooner paid.

Imprisonment in civil jail.

116. If the arrear be not paid within fifteen days, and no good reason for the non-payment is shown, the Deputy Commissioner may issue an order to the jailor of the civil jail of the district, directing him to confine the defaulter therein as a civil prisoner until the arrear is paid, or until the expiration of such period, not exceeding six months from the date of the order, as the Deputy Commissioner thinks fit; and such person shall be confined according to the terms of such order:

Provided that no person exempted under the law for the time being in force from personal attendance in the Civil Courts, no taluqdár and no female, shall be subject to arrest or imprisonment under this and the preceding section.

Attachment and sale of moveables.

117. The Deputy Commissioner may, whether the defaulter has been arrested and imprisoned or not, order the attachment and sale of so much of his moveable property as will, as nearly as may be, defray the arrear.

Nothing herein contained shall authorize the attachment and sale of articles set aside exclusively for the use of religious endowments; or, in the case of an agriculturist, of instruments of husbandry and of cattle *bonâ fide* kept for the cultivation of his land; or, in the case of an artisan, of his tools; nor of any other articles exempted by the law for the time being in force from sale in execution of decrees of Civil Courts.

Conduct of sale.

118. Every attachment and sale ordered under the preceding section shall be conducted according to the law in force for the time being for the attachment and sale of moveable property under the decree of a Civil Court.

Property may be attached and taken under direct management.

119. When an arrear of land-revenue has become due in respect of a share, pattí or mahál, the Deputy Commissioner may, in addition to, or instead of, the processes hereinbefore specified, cause such share, pattí or mahál to be attached and taken under the direct management of any agent whom he appoints for that purpose.

Powers and obligations of agent.

For the purpose of managing the property so attached, the agent so appointed shall have all the rights, and be subject to all the liabilities, with respect to such property, of the person for whose default it was attached;

until the arrears of land-revenue due therefrom have been satisfied, or until the Deputy Commissioner directs him to restore the person whose interest has been attached to the management thereof.

120. All surplus-profits of the property so attached after defraying thereout any instalment of land-revenue that may become due during such management, and the cost of such attachment and direct management, shall be applied to discharging the arrear of revenue on account of which it was ordered. Application of surplus-profits.

And no such management shall continue after such arrear has been discharged as aforesaid, and any surplus remaining after payment of the charges mentioned in the first clause of this section shall be handed over to the proprietor. Termination of management.

121. If an arrear of land-revenue has become due in respect of the share of any member of a village-community, such community, or any member thereof, may tender payment of such arrear, or may offer to pay such arrear by instalments. Transfer of share of defaulter to solvent co-sharers.

If such tender be made, or if the Deputy Commissioner considers such offer satisfactory, the Deputy Commissioner may transfer the share of the defaulting member to the community or member making the tender or offer, on such terms as the Deputy Commissioner thinks fit, and either for a term of years, or until such arrear is paid.

In case of conflicting tenders or offers under this section, the co-sharer who, in case the share were sold, would have a right of pre-emption under section 9 of the Oudh Laws Act,[a] shall be preferred.

122. If such share is so transferred until the arrear is repaid, and if the arrear is not repaid within twelve years from the date of the transfer, the community or member to whom the share has been so transferred may apply in writing to the Deputy Commissioner to publish a notification that, if the arrear is not paid within one year from the date thereof, such transfer will become absolute. When transfer of share is to become absolute.

The Deputy Commissioner shall publish such notification accordingly, and if the arrear is not repaid before the expiration of one year from the date of the notification, the transfer to such community or member shall become absolute.

123. The procedure prescribed in the two preceding sections shall not affect the joint liability of the co-sharers of the mahál. Procedure not to affect joint liability of co-sharers.

124. When any arrear of land-revenue has become due in respect of any pattí or mahál, and the Deputy Commissioner is of opinion that the processes When settlement may be annulled.

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[a] See p. 268, *infra*.

hereinbefore provided are not sufficient for the recovery of such arrear, he may, in addition to, or instead of, any such process, report, through the Commissioner of the division, the matter to the Chief Commissioner, and the Chief Commissioner may thereupon order the existing settlement of such pattí or mahál to be annulled.

Exception of certain arrears.

The provisions of this section shall not be put in force for the recovery of any arrear of land-revenue which may have accrued on land,

(*a*) while attached under section 119, or

(*b*) while in charge of the Court of Wards.

When settlement annulled, Deputy Commissioner may manage land himself, or by agent, or let it in farm.

125. When the settlement of any pattí or mahál has been annulled under the last preceding section, the Deputy Commissioner may, with the previous sanction of the Chief Commissioner, either manage the land by himself or an agent, or let it in farm to any person willing to accept the same, for such term and on such conditions as may be approved by the Chief Commissioner:

Provided that the term for which a pattí or mahál may be so managed or let be not longer than fifteen years from the first day of July next after the date of such annulment.

Suspension of contracts.

And no interest in or right to such pattí or mahál, or any part thereof, created or assigned by any person who, immediately before the annulment of the settlement, was in possession of the whole or any part of the land comprised therein, or by any person through whom he claims, shall, during the continuance of such term, be binding on the Deputy Commissioner or his agent or lessee.

Proclamation of attachment or annulment of settlement.

126. When the Deputy Commissioner attaches any land under section 119, or when the settlement of any land has been annulled under section 124, he shall make public proclamation thereof on the mahál.

And he may realize all arrears of rent becoming due in respect of such land by under-proprietors or by lessees whose rent has been fixed by a Settlement Officer, as if they were arrears of land-revenue.

Payments thereafter to defaulter not to discharge payor.

127. No payment made after such proclamation on account of rent or other profit of the land so attached, or of which the settlement has been so annulled, to any person other than the Deputy Commissioner or his agent or lessee, shall be credited to the person making such payment, or relieve him from liability to payment to the Deputy Commissioner, his agent or lessee.

Payments to defaulter in anticipation of due date.

128. No payment made to the defaulter in anticipation of the usual period for the payment of rents shall, without the special sanction of the Deputy Commissioner, be credited to the person making the same in account with the Deputy Commissioner, or with his agent or lessee.

Recovery of

129. When any land has been let in farm under section 125, any balance

due by the lessee as such may be recovered from him or his surety (if any) as if it were an arrear of revenue.

balance due by farmer.

130. Whenever the settlement of any portion of a mahál is annulled under section 124, the joint responsibility of the co-sharers of the mahál for the revenue of such portion subsequently becoming due, shall be in abeyance until a new settlement of such portion is made under section 131.

Suspension of responsibility of co-sharers for revenue of portion of mahál as to which settlement is annulled.

131. After the expiration of the period for which any land has been managed or let in farm under section 125, the Deputy Commissioner shall offer to the person entitled to be settled with under section 26 a new settlement, on such conditions as the Chief Commissioner may direct, for the remainder of the term of the settlement of the district; and if such person refuse such offer, the Deputy Commissioner may (with the previous sanction of the Chief Commissioner) either manage the land by himself or an agent, or let the same in farm, under the provisions of sections 30 to 38, both inclusive.

Offer of settlement to proprietor on expiry of period for which land is managed or farmed.

132. When an arrear of land-revenue has become due in respect of any pattí or mahál, and the Deputy Commissioner of the district is of opinion that the other processes hereinbefore provided are not sufficient for the recovery of such arrear, he may, in addition to, or instead of, all or any such other processes, and subject to the provisions next hereinafter contained, and with the previous sanction of the Chief Commissioner, sell by auction the pattí or mahál in respect of which such arrear is due:

Power to sell land to recover revenue-arrears.

Provided that no pattí or mahál shall be sold—

(*a*) for any arrears of land-revenue which may have become due in respect thereof while it was under the management of the Court of Wards, or held under the provisions of the Oudh Taluqdárs' Relief Act,[a] or when the proprietor or under-proprietor thereof was, at the time the arrear accrued, a female deemed by the Chief Commissioner incompetent to manage her estate, a minor, an idiot or a lunatic;

(*b*) for any arrears of land-revenue which may have become due while it was under attachment under section 119; or

(*c*) for any arrears of land-revenue which may have become due while it was under direct management by the Deputy Commissioner, or in farm by any other person, under sections 32, 35, 125 or 131.

133. Land sold under the last preceding section shall be sold free of all incumbrances,

Land to be sold free of incumbrances.

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[a] See p. 118, *supra*.

Grants and contracts void against purchaser.

and all grants and contracts previously made by any person other than the purchaser in respect of such land shall become void as against the purchaser at the auction-sale.

Exceptions.

Nothing in the former part of this section applies to leases of lands at fair rents, for the erection of dwelling-houses or manufactories, or for mines, gardens, tanks, canals, places of worship or burying-grounds.

Power to direct sale to be made subject to incumbrances.

134. The Chief Commissioner may, notwithstanding anything contained in section 133, at any time before a sale of land for arrears of revenue has been actually made, direct it to be made subject to such of the interests in or rights to such land created by the proprietor in possession thereof, or any person through whom he claims, as the Chief Commissioner thinks fit.

Power to cancel restricted sale and re-sell under section 133.

When the proceeds of a sale so made are not equal to the arrears due at the time of sale, the Chief Commissioner may, at any time before the Commissioner of the division has confirmed the sale, direct it to be cancelled and a new sale of the land to be made under section 133.

Power to proceed against defaulter's other immoveable property.

135. If the arrear cannot be recovered by any of the above processes, and the defaulter is in possession of any other immoveable property, the Deputy Commissioner may proceed against such other property, as if it were the land on account of which the revenue is due under the provisions of this Act:

Provided that no interest save those of the defaulter alone shall be so proceeded against, and no incumbrances created or contracts entered into by him in good faith shall be rendered invalid by such proceeding.

Procedure in effecting sale.

136. On the receipt of the sanction of the Chief Commissioner to the sale of any land, the Deputy Commissioner of the district shall issue a proclamation, in the vernacular language of the district, of the intended sale, specifying the time and place of sale,

and (when the land to be sold is a mahál or part of a mahál paying revenue to Government) the revenue assessed upon it, together with any other particulars he may think necessary.

Contents of proclamation.

137. When the land is sold for arrears of revenue due in respect thereof, the proclamation shall declare that the land is to be sold free of every incumbrance except the leases mentioned in section 133, and except the interests and rights, if any, referred to in the first paragraph of section 134.

The particulars of such leases, interests and rights shall be given in the proclamation.

Such proclamation shall be made at the head-quarters of the tahsíl in which the land is situate, and also in the village of which it is a part.

Notification of sale.

138. A written notice of the intended sale and of the time and place thereof shall be affixed in the office of the Deputy Commissioner of the district, and where the Assistant Commissioner in charge of the sub-division in which

the land is situate has a separate office, then also in such office, and a copy of such notice shall be served on the defaulter.

139. Every sale under this chapter shall be made either by the Deputy Commissioner of the district in person or by an Assistant Commissioner specially appointed by him in this behalf.

Sale by whom to be made.

No such sale shall take place on a Sunday or other authorized holiday, or until after the expiration of at least thirty days from the date on which the said notice thereof has been affixed in the office of the Deputy Commissioner of the district, and proclamation of the sale has been made in the village in which the land is situate.

Time when sale may be made.

The Deputy Commissioner of the district may, from time to time, postpone the sale, reporting such postponement to the Commissioner of the division.

140. If the defaulter pay the arrear of revenue in respect of which the land is to be sold at any time before the day fixed for the sale, to the person appointed by Government under section 109 to receive payment of the revenue assessed on such land, or to the Deputy Commissioner of the district, or the Assistant Commissioner in charge of the sub-division of the district, the sale shall be stayed.

When sale may be stayed.

141. The person declared to be the purchaser shall be required to deposit immediately twenty-five per cent. on the amount of his bid, and in default of such deposit the land shall forthwith be again put up and sold.

Deposit by purchaser. Re-sale in default of deposit.

142. The full amount of purchase-money shall be paid by the purchaser before sunset of the fifteenth day from that on which the sale of the land took place, or, if the said fifteenth day be a Sunday or other authorized holiday, then on the first office-day after such fifteenth day;

Purchase-money when to be paid.

and in default of payment within such period, the deposit, after defraying thereout the expenses of the sale, shall be forfeited to Government, and the property shall be re-sold, and the defaulting purchaser shall forfeit all claim to the property, or to any part of the sum for which it may be subsequently sold.

Re-sale in case of default.

143. If the proceeds of the sale which is eventually made be less than the price bid by such defaulting purchaser, the difference shall be leviable from him under the rules contained in the Code of Civil Procedure for the execution of a decree for money.

Liability of purchaser for loss by re-sale.

144. No re-sale under section 142 in default of payment of the purchase-money shall be made unless and until a fresh notice has been issued in the manner prescribed for the original sale.

Notification before re-sale.

145. At any time within thirty days from the date of the sale, application in writing may be made to the Commissioner of the division to set aside the sale on the ground of some material irregularity or mistake in publishing or conducting it.

Application to set aside sale.

When sale may be set aside.

146. No sale shall be set aside on such ground unless the applicant proves to the satisfaction of the Commissioner that he has sustained substantial injury by reason of the irregularity or mistake complained of.

Order confirming or setting aside.

147. After the expiration of the said thirty days, if no such application as is mentioned in section 145 has been made, or if such application has been made and rejected, the Commissioner of the division shall make an order confirming the sale;

and if such application be made and allowed, the Commissioner shall make an order setting aside the sale.-

Every order made under this section shall be final.

Bar of claims against Government.

148. If no such application be made within the time allowed by section 145, all claims founded on the irregularity or mistake complained of shall, as against the Government, be barred.

Nothing herein contained shall preclude the institution of a suit in a Civil Court for the purpose of setting aside a sale on the ground of fraud.

Refund of purchase-money when sale set aside.

149. Whenever the sale of any land is set aside, the purchaser shall be entitled to receive back his purchase-money, with or without interest at such rate, not exceeding six per cent. per annum, as the Commissioner of the division thinks fit.

On confirmation of sale, purchaser to be put in possession.

150. After a sale of land in respect of which an arrear of revenue is due has been confirmed in manner aforesaid, the Deputy Commissioner of the district shall, unless the purchase has been made subject to a right of some other person to possession, put the person declared to be the purchaser into possession of the land, and shall grant him a certificate, to the effect that he has purchased the land to which the certificate refers, and such certificate shall be deemed to be a valid transfer of such land, but need not be stamped or registered as a conveyance.

If the land has been sold on account of an arrear of revenue due in respect thereof, the certificate shall also either state that the purchaser has purchased the land to which the certificate refers free of every incumbrance other than the leases mentioned in section 133, or shall specify the incumbrances subject to which the land has been sold.

Bar of suit against certified purchas-

151. The certificate shall state the name of the person declared at the time of sale to be the actual purchaser; and any suit brought in a Civil Court against the certified purchaser on the ground that the purchase was made on behalf of another person not the certified purchaser, though by agreement the name of the certified purchaser was used, shall be dismissed with costs.

Application of proceeds of sale.

152. When a sale of land has been confirmed under section 147, the proceeds of the sale shall be applied in the first place to defraying the expenses

of sale and to the payment of any arrears due in respect of such land at the date of the confirmation of such sale and recoverable as an arrear of land-revenue,

and the surplus (if any) shall be paid to the person whose land has been sold;

or, if the land sold were held in shares, then to the co-sharers collectively, or according to the amount of their recorded interests, at the discretion of the Deputy Commissioner of the district.

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153. Such surplus shall not (except under an order of a Civil Court) be payable to any creditor of the person whose land has been sold, nor shall it (except under a like order) be retained in the Government treasury.

Surplus not to be paid to creditors, nor retained by Government, except under order of Court.

154. The person named in the certificate of title as purchaser of any land shall be liable for all instalments of land-revenue becoming due in respect of such land subsequently to the date of the confirmation of the sale.

Liability of purchaser for revenue.

155. Where any land sold under section 132 is a pattí of a mahál, any recorded co-sharer, not being himself in arrear with regard to the revenue due in respect of such land, may, if the lot has been knocked down to a stranger, claim to take the said land at the sum last bid:

Pre-emption by co-sharers when land sold is a pattí of a mahál.

Provided that such claim be made on the day of sale, and before the officer conducting the sale has left the office for the day, and provided that the claimant fulfil all the other conditions of the sale.

156. Whenever proceedings are taken under this chapter against any person for the recovery of any arrear of revenue, he may pay the amount claimed under protest to the officer taking such proceedings,

Payment under protest and suit for recovery.

and upon such payment the proceedings shall be stayed,

and (subject to the pecuniary limitations prescribed by law) the person against whom such proceedings were taken may sue the Government for the amount so paid in any Civil Court situate in the district where such proceedings were taken;

and in such suit, the plaintiff may, notwithstanding section 113, give evidence of the amount which he alleges to be due from him.

157. Any proprietor or under-proprietor of a mahál or portion of a mahál, that is attached, transferred, held under direct management, farmed or sold under the provisions of this Act, who may, at the date of the order of such attachment, transfer, direct management, farm or sale, hold any land within such mahál or portion of a mahál in his cultivating occupancy, shall be deemed to be a tenant with a right of occupancy in respect of so much of such land as the Deputy Commissioner may determine, and the rent to be paid by him for

Proprietor of mahál when to be deemed a tenant with right of occupancy.

such land shall be fixed by the Deputy Commissioner under the provisions of the Oudh Rent Act.[a]

Assistance to recover rent of mahál held in sub-settlement.

158. Whenever a mahál or pattí is held in sub-settlement, or under a heritable, non-transferable lease, the rent payable under which has been fixed by the Settlement Officer or other competent authority, and the rent of such mahál or pattí falls into arrear, the proprietor, instead of suing the defaulter under Act No. XIX of 1868,[b] may, within the period limited for such a suit, apply in writing to the Deputy Commissioner requesting him to realize such arrear.

The Deputy Commissioner shall, on receipt of such application, satisfy himself as to the existence of such arrear, and shall then, subject to such rules as may from time to time be made in this behalf by the Chief Commissioner, proceed to recover such arrear as if it was an arrear of revenue.

If in addition to or in lieu of the other remedies applicable to the recovery of arrears of revenue, the Deputy Commissioner thinks it necessary or expedient to annul the sub-settlement of any such mahál or pattí, he shall refer the case with his opinion thereon to the Chief Commissioner, and the Chief Commissioner may thereupon annul the existing sub-settlement of such mahál or pattí for such period (not exceeding fifteen years) as he thinks fit; and the new sub-settlement to be made on the expiration of such period shall be made in accordance with the provisions of section 40 and (so far as is practicable) with those of section 131.

Tenure of land under expired settlement until new settlement is made.

159. If the term for which any settlement has been made expires before a new settlement is made, all persons with whom a settlement has been made, who continue after the expiration of such term to occupy the land comprised in the expired settlement shall, until a new settlement is made, hold the said land upon the conditions of the expired settlement.

Provisions applied to arrears due at commencement of Act.

160. The provisions of this Act with regard to the recovery of arrears of revenue shall apply to all arrears of land-revenue and sums of money recoverable as arrears of land-revenue and due when this Act comes into force.

CHAPTER VIII.—Courts of Wards.

Deputy Commissioners to be Courts of Wards.

161. Deputy Commissioners shall, subject to the control of the Commissioner of the division and of the Chief Commissioner, have the power of a Court of Wards within their respective districts for the superintendence of the persons and property of all persons who may become entitled as proprietors or under-proprietors, or lessees whose rent has been fixed by a Settlement Officer, to any beneficial interest in a mahál or portion of a mahál assessed to the pay-

[a], [b] See p. 67, *supra*.

ment of land-revenue or held free of revenue, and who are either disqualified for the management of their own estates or are committed by a Civil Court to the care of the Deputy Commissioner :

Provided that the Court of Wards shall not take charge of or administer any beneficial interest in an estate, in which more persons than one have a joint undivided interest, unless all such persons are so circumstanced as to be subject to the Court of Wards.

Bar of jurisdiction in certain cases.

162. Persons shall be held to be disqualified to manage their own estates when they are—

Persons when disqualified to manage their estates.

(*a*) females deemed by the Chief Commissioner incompetent to manage their estates,

(*b*) minors,

(*c*) idiots,

(*d*) lunatics,

(*e*) persons who may in the opinion of the Chief Commissioner be otherwise rendered incapable by physical defects or infirmities from managing their estates,

(*f*) persons convicted of a non-bailable offence and disqualified in the opinion of the Chief Commissioner by vice or bad character from managing their estates,

(*g*) persons declared by the Chief Commissioner on their own application to be disqualified from managing their estates.

163. The Deputy Commissioner may make an inquiry into the disqualification of any person whom he has reason to believe disqualified within the meaning of section 162, clauses (*b*), (*c*) or (*d*), and into the circumstances and property of any such person, and may make an order declaring him to be subject to the jurisdiction of the Court of Wards.

Inquiry into minority, lunacy, idiocy, &c.

164. The Court of Wards may assume or refrain from assuming the superintendence of the person or property of any disqualified person, and may at any time release any person or property from its superintendence : Provided that such person or property has not been placed under the Court of Wards by any competent authority whose order is necessary to his or its release.

Jurisdiction of Court of Wards.

165. If in any case not specially provided for by this or any other law for the time being in force, the right of the Court of Wards to assume or retain the superintendence of the estate of a disqualified person is disputed by such person, the case shall be reported to the Chief Commissioner, whose orders thereon shall be final.

Report to Chief Commissioner when right of Court of Wards is disputed by persons other than those specially provided for.

166. The jurisdiction of the Court of Wards shall extend to the care and

Extent of jurisdiction.

education, and to the management of the property, of the persons subject thereto.

Appointment, removal and control of guardians.

167. The Court of Wards may appoint managers of the property of disqualified proprietors, and if such proprietors be minors, idiots or lunatics, may appoint guardians for the care of their persons, and may remove and control such managers and guardians.

Power of proprietors to appoint guardians for disqualified heirs.

168. Proprietors may appoint guardians for their heirs, if disqualified, by will executed and attested in manner required in case of taluqdárs by Act No. I of 1869,[a] and in case of other proprietors by the Indian Succession Act, 1865; but the Court of Wards shall be competent to remove such guardian for any sufficient reason.

Power of Court of Wards as to residence of minors under its jurisdiction.

169. The Court of Wards may direct where all male minors under its jurisdiction shall reside for the purpose of education or otherwise.

Powers of manager.

170. The manager appointed by the Court of Wards shall have power to collect the rents of the land entrusted to him, as well as all other money due to the disqualified proprietor, and to grant receipts therefor;

and he may, subject to the control of the Court, grant or renew such leases and farms, not being for a longer period than five years, as may be necessary for the good management of the property.

Duties of manager.

171. The manager shall manage the property committed to him diligently and faithfully for the benefit of the proprietor, and shall in every respect act to the best of his judgment for the proprietor's interest as if the property were his own.

Power of Court of Wards as to land under its charge.

172. The Court of Wards shall have power to give such leases or farms of the whole or parts of the immoveable property under its charge, and to mortgage or sell any part of such property, and to do all such other acts, as it may judge to be most for the benefit of the property and the advantage of the disqualified proprietors.

Disabilities of persons subject to Court of Wards.

173. Persons whose property is under the superintendence of the Court of Wards shall not be competent to create, without the sanction of the Court, any charge upon or interest in such property or any part thereof.

Their property exempt from being taken in execution of certain decrees.

174. No such property shall be liable to be taken in execution of a decree made in respect of any contract entered into by any such person while his property is under such superintendence.

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[a] See p. 104, *supra*.

175. All disqualified proprietors whose property is in charge of the Court of Wards shall sue and be sued by and in the name of their guardians, where guardians have been appointed :

Provided that no such suit shall be maintained or defended by any guardian without the sanction of the Court of Wards.

Suits by and against disqualified proprietors in charge of Court of Wards.

176. If no such guardian has been appointed, the disqualified proprietors shall sue and be sued by and in the name of the Court of Wards.

Suits by such proprietors when no guardian appointed.

177. Every manager appointed by the Court of Wards shall—

Rules relating to managers.

(*a*) give such security as the Court of Wards thinks fit, duly to account for what he shall receive in respect of the rents and profits of the property for which he is appointed ;

(*b*) pass his accounts at such periods and in such form as the Court of Wards directs ;

(*c*) pay the balance due from him thereon ;

(*d*) apply for the sanction of the Court of Wards to any act which may involve the property in expense not previously sanctioned by such Court ;

(*e*) be entitled to such allowance as the Court of Wards thinks fit, for his care and pains in the execution of his duties ;

(*f*) be responsible for any loss occasioned to the property by his wilful default or gross negligence.

CHAPTER IX.—Powers of Officers.

A.—Powers of Assistant Commissioners.

178. An Assistant Commissioner in charge of a sub-division shall as such have the following powers :—

Powers of Assistant Commissioners in charge of sub-divisions.

(*a*) to refer cases for inquiry or decision to his subordinates ;

(*b*) to withdraw cases from his subordinates and to deal with them himself, or to refer them for disposal to any other subordinate officer competent to deal with them ;

(*c*) to order changes in the proprietary register ;

(*d*) to levy fees for mutations ;

(*e*) to receive notices of, and to inquire into, cases of reported transfers ;

(*f*) to levy fines, under section 64 ;

(*g*) to declare the person best entitled to property and put him in possession, under section 65 ;

(*h*) to enquire into and dispose of disputes, under section 66 ;

(*i*) to report on revenue-free holdings, and to assess revenue on resumed grants ;

(*j*) to assess alluvial lands ;

(*k*) to receive applications for and make partitions under chapter V of this Act, subject to the confirmation of the Deputy Commissioner of the district;

(*l*) to impose fines for injuries to boundary-marks, and in certain cases apportion the charges of re-erecting and repairing boundary-marks;

(*m*) to call on owners to erect or repair boundaries, and, in default, to erect and repair and charge the cost to owners, and to decide disputes regarding boundaries;

(*n*) to attach and sell moveable property of defaulters, under section 117;

(*o*) to fix, under section 157, the area of the land to be held as a tenant with right of occupancy and the rent to be paid for it by proprietors of mahâls which have been attached, transferred, held under direct management, farmed or sold, under the provisions of this Act, for land in their cultivating occupancy;

(*p*) to give orders as to the appointment, suspension, dismissal, punishment, remuneration and supervision, of patwârís, under sections 206 to 212, both inclusive.

Powers of Assistant Commissioners of first class not in charge of sub-divisions.

179. Assistant Commissioners of the first class, not in charge of sub-divisions of districts, shall exercise all or any of the powers conferred on Assistant Commissioners of the first class in charge of sub-divisions, in such cases or class of cases as the Deputy Commissioner of the district may, from time to time, refer to them for disposal.

Powers of Assistant Commissioners of second class.

180. All Assistant Commissioners of the second class shall have power to investigate and report on such cases as the Deputy Commissioner of the district or Assistant Commissioner in charge of a sub-division of a district may, from time to time, commit to them for investigation and report.

B.—Powers of Settlement Officers.

Powers of officers in charge of a settlement.

181. Officers in charge of a settlement may exercise all the powers conferred by or under this Act on Settlement Officers, and by section 10 on the Deputy Commissioner of the district, but none but an officer in charge of a settlement or an Assistant Settlement Officer especially empowered by the Chief Commissioner shall have power—

(*a*) to frame proposals for assessment;

(*b*) to distribute the assessment;

(*c*) to re-distribute land or revenue under section 31;

(*d*) to determine the rent payable under section 40 by under-proprietors or lessees;

(*e*) to exclude proprietors from settlement for refusal to engage;

(*f*) to adjust the rent of excluded proprietors;

(*g*) to resume and assess revenue-free land.

182. All other powers conferred on Settlement Officers by this Act shall be exercised by Assistant Settlement Officers, under such restrictions as the officer in charge of a settlement may from time to time impose.

Powers of Assistant Settlement Officers.

183. The Chief Commissioner may, with the previous sanction of the Governor General in Council, invest any officer in charge of a settlement with all or any of the powers of a Deputy Commissioner under this Act, and any Assistant Settlement Officer with all or any of the powers conferrible on an Assistant Commissioner under this Act, within such limits, and with such restrictions, and for such period, as he thinks fit.

Investing of Settlement Officers with powers of Deputy Commissioner and Assistant Commissioner.

CHAPTER X.—APPEALS.

184. Appeals shall lie under this Act as follows:—

Officers to whom appeals lie.

(*a*) to the Chief Commissioner, from any order passed by a Commissioner, except such orders as are made on appeal from orders passed by Deputy Commissioners in the exercise of their appellate jurisdiction;

(*b*) to the Commissioner, from orders, original or appellate, passed by Deputy Commissioners or officers in charge of a settlement in any proceeding held under the provisions of this Act;

(*c*) to the Deputy Commissioner, from orders passed by any Assistant Commissioner;

(*d*) to the officer in charge of a settlement, from orders passed by an Assistant Settlement Officer.

185. No appeal under section 184, clauses (*c*) and (*d*), shall be brought after the expiration of thirty days from the date of the order complained of.

Limitation of appeals.

No appeal under the same section, clause (*b*), shall be brought after the expiration of six weeks from the date of the order complained of, unless otherwise specially provided.

No appeal under the same section, clause (*a*), shall be brought after the expiration of two months from the date of the order complained of.

186. In computing the period prescribed for an appeal under this chapter, the day on which the order complained of was passed, and the time requisite for obtaining a copy of such order, shall be excluded.

Time to be excluded.

187. Any appeal under this chapter may be admitted after the period of limitation prescribed therefor, when the appellant satisfies the officer to whom he appeals that he had sufficient cause for not presenting the appeal within such period.

Admission of appeal after period of limitation.

No appeal shall lie against an order under this section admitting an appeal.

188. The officer to whom the appeal lies may either admit or summarily reject the appeal. If he admit the appeal, he may reverse, modify or confirm

Procedure on admitting appeal.

the order appealed against, or he may direct such further investigation to be made, or such additional evidence to be taken, as he may think necessary, or he may himself take such additional evidence.

Suspension of order appealed against.

189. In every case in which an appeal is admitted, the execution of the order appealed may, pending the result of the appeal, be suspended.

Power to call for files of subordinate officers.

190. The Chief Commissioner and every Commissioner shall have power to call for the file of any proceeding held by any officer subordinate to him, and to pass such orders thereon as he thinks fit.

CHAPTER.—XI.—Reference to Arbitration.

Power to refer disputes to arbitration.

191. The Chief Commissioner, a Commissioner of a division, a Deputy Commissioner, an Assistant Commissioner of the first class, an officer in charge of a settlement, or an Assistant Settlement Officer, may, with the consent of the parties, by order, refer any dispute before him to arbitration; and any officer acting under the provisions of sections 102 to 107, both inclusive, may, with the consent of the parties, refer to arbitration any dispute arising before him respecting the matters mentioned in the same sections.

What to be specified in order of reference.

192. In referring any such dispute to arbitration, the officer making the reference shall specify, in the order of reference, the precise matter submitted to the arbitrators, and such period as he may think reasonable for the delivery of the award;

and he may from time to time extend such period.

Appointment of arbitrators.

193. The parties to the case may each nominate either one or two arbitrators, provided that each party shall nominate the same number;

and a third or fifth arbitrator (as the case may be) shall be appointed by the parties, or, in the event of their being unable to agree, by the officer making the reference.

Power to excuse arbitrator from serving, and to call for nomination of substitute.

194. Every officer making a reference under this chapter may, on good cause shown, excuse any person from serving as an arbitrator, and may call on the party who nominated such person to nominate another in the place of the person so excused.

Nomination of new arbitrator in place of one dying or failing to act.

195. If an arbitrator die, desire to be discharged, or refuse or become incapable to act, the party who nominated him shall nominate another person in his place.

Nomination by officer when parties fail.

196. If in any of the cases provided for by section 194, or section 195, any party fail for a week to nominate in manner aforesaid, the officer making the reference shall appoint some person to act as arbitrator.

The arbitrators shall determine and award concerning the matters referred to them for arbitration; and the parties disputing, and all persons claiming through them, respectively, shall abide by and perform the award of the arbitrators. **Award.**

197. If the arbitrators require the presence of the parties, or any other persons whose evidence may be necessary, they shall apply to the officer making the reference, who shall summon such parties or persons; **Summoning parties to give evidence.**

and all such parties or persons shall be bound to attend, either in person or by agent, as the arbitrators may require, and to state the truth as to the subject-matter of the reference, and to produce such documents and other things as may be required before the arbitrators. **Obligation of persons summoned.**

198. The award shall be made in writing under the hands of the arbitrators, and shall be submitted by them to the officer making the reference, who shall cause notice to be served on the parties to attend and hear the award. **Preparation and submission of award.**

199. The officer making the reference may remit the award or any of the matters referred to arbitration to the re-consideration of the same arbitrators, **In what cases award or subject of arbitration may be remitted to arbitrators.**

(*a*) if the award has left undetermined some of the matters referred to arbitration, or if it determine matters not referred to arbitration;

(*b*) if the award is so indefinite as to be incapable of execution;

(*c*) if an objection to the legality of the award is apparent upon the face of the award.

200. No award shall be liable to be set aside except on the ground of corruption or misconduct of all or any of the arbitrators. **Grounds on which award may be set aside.**

Any application to set aside an award shall be made within ten days after the day appointed for hearing the award. **Application to set aside.**

201. If the officer making the reference does not see cause to remit the award or any of the matters referred to arbitration for re-consideration in the manner aforesaid, **Decision according to award.**

and if no application has been made to set aside the award,

or if he has refused such application,

he shall decide in accordance with the award of the majority of the arbitrators,

and shall fix the amount to be allowed for the expenses of the arbitration, and direct by and to whom, and in what manner, the same shall be paid.

202. Such decision shall not be open to appeal, and shall be at once carried out; **Bar to appeal and suit in Civil Court.**

and no Civil Court shall entertain any suit for the purpose of setting it aside or against the arbitrators on account of their award.

CHAPTER XII.—Of Patwáris.

Power to require appointment of patwárí.

203. The Chief Commissioner may require the appointment of a patwárí for any village, villages or local area, for which, by reason of prior usage or of the requirements of the locality, he thinks that a separate patwárí is necessary.

Responsibility of proprietors in respect of patwáris.

204. All proprietors and under-proprietors shall be responsible for the nomination of duly qualified persons to fill the office of patwárí, and for the punctual and accurate performance by their nominees of the duties prescribed for them by the rules framed under the next following section.

The mortgagees and conditional vendees of such proprietors and under-proprietors shall, if in possession of the land mortgaged or conditionally sold, be deemed to be, for the purpose of this chapter, proprietors and under-proprietors.

Power to make rules as to qualifications, &c., of patwáris.

205. The Chief Commissioner may, from time to time, make rules consistent with this Act for regulating the qualifications, enrolment and duties of patwáris.

Patwáris by whom appointed.

206. Appointments of patwáris shall ordinarily be made by the Deputy Commissioner on the nomination of the proprietors or under-proprietors. If, in the area for which the patwárí is to act, there are more proprietors or under-proprietors than one, the nominee of those proprietors or under-proprietors who own the largest extent of land in that area shall be deemed to have been nominated for the appointment.

If a mahál is under direct management, or under the charge of the Court of Wards, or under the management of a manager appointed under the Oudh Taluqdárs' Relief Act, the Deputy Commissioner shall, for the purpose of nominating a patwárí, be deemed to be a proprietor or under-proprietor.

Procedure where proprietors fail to nominate.

207. If the proprietors or under-proprietors fail to nominate a patwárí within a reasonable time, the Deputy Commissioner shall give them notice in writing to do so, and if they further fail to do so for fifteen days after the receipt of such notice, he may appoint a patwárí.

Procedure where nominee is not qualified.

208. If the Deputy Commissioner considers that a nominee is not qualified for the office of patwárí, he shall refuse to appoint him, and shall call upon the proprietors or under-proprietors to nominate some other fit person, and if no fit person be nominated within the following fifteen days, he shall himself appoint a person to the vacant office.

Removal of patwárí on request of all the persons entitled to appoint.

209. The Deputy Commissioner shall remove a patwárí from his office, if all the persons entitled to appoint to the office request his removal, unless the Deputy Commissioner has reason to think that such request is caused by a fraudulent or other improper motive.

210. The Deputy Commissioner may remove a patwárí from his office, if any of the proprietors or under-proprietors, or any of the tenants of the local area for which such patwárí has been appointed, apply to the Deputy Commissioner for his removal: but the Deputy Commissioner shall first give to the patwárí and to the proprietors or under-proprietors (if any) who have not joined in the application, reasonable opportunity of showing cause why such patwárí should not be removed.

Removal on request of some of such persons.

211. If the Deputy Commissioner thinks that a patwárí whose removal is applied for ought to be continued in office, or if he thinks that a patwárí is not qualified for his office, he may order that the patwárí shall be continued in office or be removed, as he thinks fit.

Procedure where Deputy Commissioner thinks that patwárí should be continued.

212. The Chief Commissioner may from time to time, with the previous sanction of the Governor General in Council, make rules consistent with this Act, for the appointment, suspension, dismissal, punishment, remuneration and supervision of patwárís. Such rules may, among other things, prescribe the amount to be paid for the salaries of patwárís, for the necessary expenses of their office, and for the remuneration of the kánúngos (if any) appointed to supervise them, and the persons by whom such payments are to be made.

Power to make rules as to appointment, &c., of patwárís.

213. The provisions contained in sections 206 to 212 (inclusive) shall not, by force only of this Act, apply to the appointment, dismissal, punishment or remuneration of patwárís for taluqás which are in the possession of their owners; but the Chief Commissioner may order all or any of such provisions to be so applied in the cases mentioned in section 215.

Exemption from sections 206 to 212.

214. If in any such taluqá, the taluqdár fails to appoint a patwárí as required by this Act, or if the patwárí fails to prepare or submit any of the papers or accounts required by this Act or any rules made hereunder, the Deputy Commissioner may, for any one year, cause such papers or accounts to be prepared and submitted at the expense of the taluqdár.

Power to order patwárí's papers to be prepared at expense of taluqdár.

215. On the request of any taluqdár,

or if any taluqdár persistently or repeatedly fails

(1) to nominate persons to fill the office of patwárí, or

(2) to ensure the punctual and accurate performance by his nominees of the duties prescribed for them by the rules framed under this chapter,

the Chief Commissioner may order that all or any of the provisions contained in sections 206 to 212 inclusive, shall be applied to the taluqá of the taluqdár making such request or default, or to any local area therein, for such term as the Chief Commissioner thinks fit; and may rescind or modify such order:

Provided that, in the case of the taluqdár making such request, the term shall not exceed his life, and that, in the case of the taluqdár making such

Power to apply sections 206 to 212 to local areas.

default, the term shall not exceed his life or fifteen years, whichever period first expires.

CHAPTER XIII.—MISCELLANEOUS.

Place for holding Court.

216. Subject to the orders of the Chief Commissioner,

(*a*) a Commissioner may hold his Court at any place within his division that he thinks fit:

(*b*) a Deputy Commissioner, an Assistant Commissioner (whether in charge or not of a sub-division of a district), or an officer in charge of a settlement or Assistant Settlement Officer may hold his Court at any place within the limits of the district to which he is appointed; and

(*c*) a Tahsíldár may hold his Court at any place within the limits of his tahsíl.

Power to summon persons to give evidence and produce documents.

217. The Chief Commissioner and any officer mentioned in the last preceding section shall have power to summon any person whose attendance he considers necessary for the purpose of any investigation, suit or other business before him.

All persons so summoned shall be bound to attend, either in person or by authorized agent, as such officer may direct,

and to state the truth upon any subject respecting which they are examined,

and to produce such documents and other things as may be required.

Conduct of proceedings.

218. All proceedings held under the provisions of this Act shall be conducted according to the rules for the time being prescribed under section 220.

Matters excepted from cognizance of Civil Courts.

219. No Civil Court shall exercise jurisdiction over any of the following matters:—

(*a*) the claim of any person to be settled with, or

the validity of any engagement with Government for the payment of revenue, or

the amount of revenue, cess or rate to be assessed on any mahál, or portion of a mahál, under this or any other Act for the time being in force, or

the rent to be paid to a proprietor by an under-proprietor or a lessee whose rent has been fixed by the Settlement Officer:

(*b*) any claims connected with or arising out of any process enforced on account of neglect or refusal to accept the assessment or terms of sub-settlement proposed by the Settlement Officer:

(*c*) the formation of the settlement-record,

the preparation, signing or attestation of any of the documents contained therein, or

the notification of settlement:

(*d*) the distribution, on partition, of the land or allotment of the revenue of a mahál, or of the rent of an under-proprietary tenure, or of rent payable by lessees whose rent has been fixed by a Settlement Officer:

(*e*) the determination of the rent to be paid by any person under section 86:

(*f*) claims connected with, or arising out of, the collection of revenue or any process enforced on account of an arrear of revenue, or on account of any sum which is by this or any other Act realizable as revenue, other than claims under section 156.

(*g*) claims to set aside a sale for arrear of revenue, other than claims under section 148.

In all the above cases, jurisdiction shall rest with the revenue officers only.

Power to make rules for purposes of Act.

220. The Chief Commissioner may from time to time, with the previous sanction of the Governor General in Council, make and issue rules consistent with this Act, and relating to the following matters:—

(*a*) the qualifications, appointment, duties, remuneration, punishment and dismissal of—

(1) tahsíldárs,

(2) lambardárs or representatives of village-communities,

(3) kánúngos or superintendents of revenue-records;

(*b*) for regulating the assessment of land gained by alluvion or the reduction of the assessment of a mahál in consequence of diluvion;

(*c*) the procedure to be followed by any officer or other person who, under any provision of this Act, is required or empowered to take action in any matter;

(*d*) the person by whom, and the time and manner at or in which, anything for the doing of which provision is hereinbefore made in this Act, shall be done;

(*e*) the form and contents of reports to be furnished by officers required or empowered to take action in any matter, and the period within which such reports shall be furnished;

(*f*) the form and contents of the registers and lists kept under this Act;

(*g*) the mode of recovering arrears of rent under section 158, the extent to which they may be recovered, and the amount which may be retained by the Deputy Commissioner to defray the expenses of such recovery;

(*h*) the cases in which taluqdárí maháls, and maháls, whether under-proprietary or held by lessees whose rents have been fixed by the Settlement Officer or other competent authority, may be partitioned under this Act;

(*i*) the costs of partitions under this Act and the persons by whom they are to be paid, and the mode of enforcing such payment against such persons or their shares in the property of which partition has been made;

(*j*) the issue, under section 114, of writs of demand or summons to appear, and the costs recoverable from the defaulter, and the officer by whom such writs and summonses shall be issued;

(*k*) and generally to carry out the provisions of this Act.

Recovery of fines and costs.

221. All fees, fines, costs and other moneys ordered to be paid under this Act, shall be recoverable as if they were an arrear of land-revenue.

THE OUDH LAWS ACT, 1876.

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ACT No. XVIII OF 1876.

Received the Governor General's assent on the 10th of October 1876.

An Act to declare and amend the laws to be administered in Oudh.

Preamble.

WHEREAS it is expedient to declare and amend the laws to be administered in Oudh; It it hereby enacted as follows :—

PART I.

PRELIMINARY.

Short title.

1. This Act may be called "The Oudh Laws Act, 1876 :"

Local extent.

It extends only to the territories for the time being under the administration of the Chief Commissioner of Oudh;

Commencement.

And it shall come into force on the passing thereof.

Repeal of enactments.

2. The Regulations, Acts, Rules and Orders mentioned or referred to in the first schedule hereto annexed shall be repealed to the extent mentioned in the third column of the said schedule.

PART II.

GENERAL LAWS TO BE ADMINISTERED IN OUDH.

Statutory law to be administered in Oudh.

3. The law to be administered by the Courts of Oudh shall be as follows :—

(*a*) the laws for the time being in force regulating the assessment and collection of land-revenue;

(*b*) in questions regarding succession, special property of females, betrothal, marriage, divorce, dower, adoption, guardianship, minority, bastardy, family-relations, wills, legacies, gifts, partitions or any religious usage or institution, the rule of decision shall be—

(1) any custom applicable to the parties concerned which is not contrary to justice, equity or good conscience, and has not been, by this or any other enactment, altered or abolished, and has not been declared to be void by any competent authority;

(2) the Muhammadan law in cases where the parties are Muhammadans, and the Hindú law in cases where the parties are Hindús, except in so far

as such law has been, by this or any other enactment, altered or abolished, or has been modified by any such custom as is above referred to;

(*c*) the rules contained in this Act;

(*d*) the rules published in the local official Gazette as provided by section 40, or made under any other Act for the time being in force in Oudh;

(*e*) the Regulations and Acts specified in the second schedule hereto annexed, subject to the provisions of section 4, and to the modifications mentioned in the third column of the same schedule;

(*f*) subject to the modifications hereinafter mentioned, all enactments for the time being in force and expressly, or by necessary implication, applying to British India or Oudh, or some part of Oudh;

(*g*) in cases not provided for by the former part of this section, or by any other law for the time being in force, the Courts shall act according to justice, equity and good conscience.

Validity of local customs and mercantile usages.

4. All local customs and mercantile usages shall be regarded as valid, unless they are contrary to justice, equity or good conscience, or have, before the passing of this Act, been declared to be void by any competent authority.

PART III.

CHAPTER I.—Dower among Muhammadans.

Muhammadan dower-contracts how to be enforced.

5. Where the amount of dower stipulated for in any contract of dower by a Muhammadan is excessive with reference to the means of the husband, the entire sum provided in the contract shall not be awarded in any suit by decree in favour of the plaintiff, or by allowing it by way of set-off, lien or otherwise to the defendant; but the amount of the dower to be allowed by the Court shall be reasonable with reference to the means of the husband and the status of the wife.

Rule applicable after husband's death.

This rule shall be applicable whether the suit to enforce the contract be brought in the husband's lifetime or after his death.

CHAPTER II.—Pre-emption.

Right of pre-emption.

6. The right of pre-emption is a right of the persons hereinafter mentioned or referred to, to acquire, in the cases hereinafter specified, immoveable property in preference to all other persons.

Presumption as to its existence.

7. Unless the existence of any custom or contract to the contrary is proved, such right shall, whether recorded in the settlement-record or not, be presumed—

(*a*) to exist in all village-communities, however constituted, and whether proprietary or under-proprietary, and in the cases referred to in section 40 of the Oudh Land-Revenue Act, and

(*b*) to extend to the village-site, to the houses built upon it, to all lands and shares of lands within the village-boundary, and to all transferable rights affecting such lands.

Its existence in towns to be proved.

8. The right of pre-emption shall not be presumed to exist in any town or city, or any sub-division thereof, but may be shown to exist therein, and to be exercisable therein by such persons and under such circumstances as the local custom prescribes.

Devolution of right when property to be sold or foreclosed is a proprietary or under-proprietary tenure

9. If the property to be sold or foreclosed is a proprietary or under-proprietary tenure, or a share of such a tenure, the right to buy or redeem such property belongs, in the absence of a custom to the contrary,

1*st*, to co-sharers of the sub-division (if any) of the tenure in which the property is comprised, in order of their relationship to the vendor or mortgagor;

2*ndly*, to co-sharers of the whole mahál in the same order;

3*rdly*, to any member of the village-community; and

4*thly*, if the property be an under-proprietary tenure, to the proprietor.

Where two or more persons are equally entitled to such right, the person to exercise the same shall be determined by lot.

Notice to pre-emptors.

10. When any person proposes to sell any property, or when he forecloses a mortgage upon any property, in respect of which any persons have a right of pre-emption, he shall give notice to the persons concerned of the price at which he is willing to sell such property, or of the amount due in respect of such mortgage, as the case may be.

Such notice shall be given through the Court within the local limits of whose jurisdiction the property or any part thereof is situate, and shall be deemed sufficiently given if it be stuck up on the chaupál or other public place of the village or city in which the property is situate.

Loss of right of pre-emption.

11. Any person having a right of pre-emption in respect of any property proposed to be sold, shall lose such right, unless within three months from the date of such notice he or his agent pays or tenders the price aforesaid to the person so proposing to sell.

Right of pre-emptor on foreclosure.

12. When the right of pre-emption arises in respect of the foreclosure of a mortgage, any person entitled to such right may, at any time within three months after the giving of the notice required by section 10, pay or tender to the mortgagee or his successor in title the amount specified in such notice, and shall thereupon acquire a right to purchase the property.

On completion of the purchase the person exercising the right of pre-emption shall be bound to pay to the mortgagee or his successor in title the amount specified in such notice, together with interest on the principal sum secured by the mortgage, at the rate specified by the instrument of mortgage,

for any time which has elapsed since the date of the notice, and any additional costs which may have been properly incurred by the mortgagee or his successor in title.

13. Any person entitled to a right of pre-emption may bring a suit to enforce such right on any of the following grounds (namely)— Suit to enforce right of pre-emption.

(*a*) that no due notice was given as required by section 10;

(*b*) that tender was made under section 11 or section 12 and refused;

(*c*) in the case of a sale, that the price stated in the notice was not fixed in good faith;

(*d*) in the case of a mortgage, that the amount claimed by the mortgagee was not really due on the footing of the mortgage and was not claimed in good faith, and that it exceeds the fair market-value of the property mortgaged.

If, in the case of a sale, the Court finds that the price was not fixed in good faith, the Court shall fix such price as appears to it to be the fair market-value of the property sold.

If, in the case of a mortgage, the Court finds that the amount claimed by the mortgagee was not really due on the footing of the mortgage, and that it was not claimed in good faith, and that it exceeds the fair market-value of the property mortgaged, the amount to be paid to the mortgagee shall not exceed what the Court finds to be such market-value.

14. If the Court find for the plaintiff, the decree shall specify a day on or before which the purchase-money or the amount to be paid to the mortgagee shall be paid. Decree to fix time for payment.

15. If such purchase-money or amount is not paid into Court before it rises on that day, the decree shall become void, and the plaintiff shall, so far only as relates to such sale or mortgage, lose his right of pre-emption over the property to which the decree relates. Effect of non-payment of purchase-money.

CHAPTER III.—Procedure of the Courts.

16. The Judicial Commissioner's Circular No. 104 of July 1860, shall be held to have been a notification within the meaning of section 24 of Act No. XIV of 1859; and such Act shall be deemed to have been in force in Oudh from the fourth day of July 1862; and all orders and decrees passed under the rules contained in the said Circular, or under the said Act, shall be deemed to have been passed under a law in force for the time being. Rule of limitation.

Nothing in this section affects the provisions of sections 102, 104, 105, 106, 107 and 108 of the Oudh Rent Act (XIX of 1868)[a] with regard to the limitation of suits under that Act.

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[a] See p. 67, *supra*.

Act XXXII of 1871, s. 28, to cease in any district from notification that it is no longer under settlement.

17. The provisions of the Oudh Civil Courts Act, 1871, section 28, [a] shall cease, and be deemed to have ceased, to have effect in any district from the date of the notification under section 26 of that Act.

Recognized agent.

18. Section 17 of Act VIII of 1859 is hereby repealed, so far as the province of Oudh is concerned, and the following section is substituted therefor :—

"The recognized agents of parties by whom such applications and appearances may be made are—

"A permanent servant, partner, relation or friend, whom the Court may admit as a fit person to represent a party, and especially persons holding powers-of-attorney from absent parties, parties carrying on business on behalf of bankers and traders, managing agents of landlords, nearest male relations of women, and persons *ex officio* authorized to act for Government or for any Prince or Chief.

"Whenever the personal appearance of a party to a suit is required by this Act, such appearance may be made by his recognized agent, unless the Court shall otherwise direct; and anything which by this Act is required or permitted to be done by a party in person may be done by his recognized agent. Notices given to, or processes served on, a recognized agent, relative to a suit, shall be effectual for all purposes, in relation to the suit, as if the same had been given to, or served on, the party in person, unless the Court shall otherwise direct; and all the provisions of this Act, relative to the service of notices or processes on a party to a suit, shall be applicable to the service of notices and processes on such recognized agent."

Rules for taking evidence.

19. Section 172 of Act No. VIII of 1859 is hereby repealed, so far as the province of Oudh is concerned, and the following section is substituted therefor :—

"On the day appointed for the hearing of the suit, or on some other day to which the hearing may be adjourned, the evidence of the witnesses in attendance shall be taken orally in open Court in the presence and hearing and under the personal direction and superintendence of the Judge.

"A note of the essential points of the evidence of each witness is to be taken at the time, and in the course of oral examination, by the officer who tries the case, in his own language, or in English if he is sufficiently acquainted with that language, and such note shall be filed, and shall form part of the record of the case.

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[a] See p. 167, *supra*.

"If the evidence be taken down in a different language from that in which it has been given, and the witness does not understand the language in which it is taken down, the witness may require his deposition as taken down to be interpreted to him in the language in which it was given.

"It shall be in the discretion of the Court to take down, or cause to be taken down, any particular question and answer, if there appear any special reason for so doing, or any party or his pleader requires it.

"If any question put to a witness be objected to by either of the parties or their pleaders, and the Court allow the same to be put, the question and the answer shall be taken down, and the objection and the name of the party making it shall be noticed in taking down the depositions, together with the decision of the Court upon the objection.

"The Court shall record such remarks as it may think material respecting the demeanour of the witness while under examination.

"If the Judge be prevented from making a note as above required, he shall record the reason of his inability to do so, and shall cause such note to be made in writing from his dictation in open Court, and shall sign the same, and such note shall form part of the record."

Execution-sale of ancestral and acquired property in land.

20. So much of section 205 of the Code of Civil Procedure, as renders land liable to sale in execution of a decree, shall be subject to the following restriction :—

No ancestral property in land shall be sold in satisfaction of a decree without the permission of the Chief Commissioner; no self-acquired property in land shall be so sold without the permission of the Commissioner.

Explanation.—In this section the words "ancestral property" include the immoveable property of persons admitted to engagement for the land-revenue at the summary settlement of 1858-59.

Appointment of manager of land attached.

21. Whenever the Civil Court thinks fit under the said Code to provide for the management of land attached in execution of a decree, the Court shall issue a precept to the Deputy Commissioner of the district wherein such land is situate, directing him to take charge of such land, and to appoint a person for the care and management thereof under adequate security for the faithful discharge of his duty.

The precept shall describe the land comprised in such direction, and the attachment shall not be withdrawn without a further precept from the Court to that effect.

Nothing in this section authorizes a Civil Court to direct a Deputy Commissioner to take charge of land not in the actual possession of the judgment-debtor or of some one whom the judgment-debtor has a present right to remove from possession.

Service of process within jurisdiction of Lakhnau Civil Court.

22. Notwithstanding anything contained in the said Code, any Civil Court sitting within the local limits of the jurisdiction of the Lakhnau Civil Court, but exercising jurisdiction beyond such limits, may cause summonses, warrants, notices and other processes to be served within the local limits of the jurisdiction of the Lakhnau Civil Court without causing the same processes to be served through such Court.

Section substituted for Act XIX of 1868, s. 109.

23. The following section is substituted for section 109 of the Oudh Rent Act :—

[*v. supra*, p. 97.]

Section substituted for Act XIX of 1868, s. 118.

24. Section 118 of the Oudh Rent Act is repealed, and the following section is substituted for it :—

[*v. supra*, p. 99.]

Right of occupancy in judgment-debtor's sir-land.

25. Any proprietor or under-proprietor of a mahál or portion of a mahál, which is attached, transferred, held under direct management, farmed or sold under the provisions of the Code of Civil Procedure, who may, at the date of the order for such attachment, transfer, management, farm or sale, hold any land within such mahál or portion of a mahál in his cultivating occupancy, shall be deemed to be a tenant with a right of occupancy in respect of so much of such land as the Deputy Commissioner shall determine, and the rent to be paid by him for land so determined shall be fixed by the Deputy Commissioner under the provisions of the Oudh Rent Act.

Revenue Agents authorized to appear, &c., in rent-suits.

26. Notwithstanding anything contained in Act No. XX of 1865, all persons duly admitted and enrolled as Revenue Agents under that Act in the territories for the time being under the administration of the Chief Commissioner of Oudh may appear, plead and act in suits under the Oudh Rent Act in the Courts of officers exercising the powers of Assistant Collectors, Deputy Collectors, Collectors and Commissioners under the same Act.

Power to make rules for custody and sale of attached property.

27. With the sanction of the Chief Commissioner, the Judicial Commissioner may from time to time make rules consistent with this Act and with the Code of Civil Procedure,

(*a*) for the custody and sale of moveable property attached in execution of decrees;

(*b*) for the levy of a fee or commission on the sale of attached property, and the disposal of the funds accruing from such fees;

(*c*) as to the appointment and remuneration of persons by whom property is to be attached, kept in custody and sold; and

(*d*) as to the appointment and remuneration of persons by whom local investigations under section 180, and investigations and adjustments of accounts under section 181, of the Code of Civil Procedure, are to be made.

Power to

28. The Judicial Commissioner may, at any time within one year from the

time of the passing of any decree or order by any Court subordinate to him, call for the proceedings in the case, and may, if he see sufficient grounds, revise and alter, or reverse or confirm, the said decree or order. But in such case, before revising, altering or reversing the decree or order, he shall cause the same notice to be given to the party in whose favour it was pronounced, and the same opportunity to such party to be heard in support thereof, and the same proceedings to be taken, as if a memorandum of appeal had been filed by the party aggrieved thereby.

revise decrees and orders of subordinate Courts.

CHAPTER IV.—Village and Road Police.

29. The nomination to the post of village-policeman shall be made by the zamíndár of the village, or, where there are more zamíndárs than one, by the lambardár as their representative; and where there are more lambardárs than one, the opinion of the majority (unless there is some special provision to the contrary in the village-administration-paper) shall prevail.

Right to nominate village-policemen.

30. Every person authorized to nominate to the office of village-policeman shall, within fifteen days after the occurrence of a vacancy in such office, nominate a proper person to the vacant post, and communicate the nomination to the Magistrate of the district.

Obligation to nominate.

31. The person so nominated shall, after due enquiry into his age, character and ability, be appointed or rejected at discretion by such Magistrate, or by some officer authorized by him in that behalf.

Discretion to appoint or reject nominee.

32. In default of such nomination within the said fifteen days, the Magistrate of the district shall appoint such person as he thinks fit to the vacancy.

Power to Magistrate to appoint.

If the nomination has been made within the said fifteen days, but the nominee is rejected, the person authorized to nominate shall, within fifteen days from the date of such rejection, nominate another person to the vacant post; and in default of such nomination, or if such nomination has been made, but the nominee is again rejected, the Magistrate of the district shall appoint such person as he thinks fit to the vacancy.

Procedure in case of rejection of nominee.

33. Subject to the rules to be framed under section 39 and for the time being in force, the Magistrate of the district may from time to time appoint persons to be the road-police of his district.

Appointment of road-police.

34. Every village-policeman and every road-policeman shall perform the following duties:—

Duties of village and road-policemen.

(*a*).—He shall give immediate information to the officer in charge of the police-station appointed for his village or beat,

(1) of every unnatural, suspicious or sudden death occurring in the village of which he is chaukídár, or within his beat;

(2) of each of the following offences occurring in such village or on such beat (that is to say), murder, culpable homicide, rape, dacoity, theft, robbery, mischief by fire, house-breaking, counterfeiting coin, causing grievous hurt, riot, harbouring a proclaimed offender, exposure of a child, concealment of birth, administering stupefying drugs, kidnapping, lurking house-trespass, and

(3) of all attempts and preparations to commit, and abetments of, any of the said offences:

(*b*).—He shall keep the Police informed of all disputes which are likely to lead to any riot or serious affray:

(*c*).—He shall arrest all proclaimed offenders, and all persons whom he may find in the act of committing any offence specified in paragraph (*a*), clause (2), of this section:

(*d*).—He shall observe, and from time to time report to the officer in charge of the police-station within the jurisdiction of which his village or beat may be situate, the movements of all bad characters in or on such village or beat:

(*e*).—He shall report to the officer in charge of such police-station the arrival of suspicious characters in the neighbourhood:

(*f*).—He shall supply to the best of his ability any local information which a Magistrate or any officer of Police may require, and shall promptly execute all orders issued to him by competent authority.

Procedure on arrest by village or road-policeman.

35. Whenever a village-policeman or road-policeman arrests any person, he shall take him as soon as possible to the police-station within the jurisdiction of which his village or beat is situate.

Dismissal of village and road-policemen.

36. The Magistrate of the district may dismiss any village-policeman or road-policeman for any misconduct or neglect of duty.

Where any village-policeman is guilty of neglect of duty or other misconduct, the person authorized to nominate to his office may report him for dismissal to the Magistrate of the district; and such Magistrate shall dismiss him accordingly, unless the Magistrate has reason to think that such dismissal would be improper.

Acts punishable.

37. Every village-policeman and road-policeman guilty of any wilful misconduct in his office, or of neglect of duty, such misconduct or neglect not being an offence within the meaning of the Indian Penal Code,

or withdrawing from the duties of his office without permission and without having given at least two months' notice of his intention to withdraw from such duties to the persons authorized to nominate or appoint under sections 29, 32 and 33 (as the case may be),

or offering any unnecessary personal violence to any person in his custody,

Penalty.

shall be liable, on conviction before a Magistrate, to a penalty not exceed-

ing three months' pay, or to imprisonment for a period not exceeding three months, or to both.

38. All fines levied under this Act on village-policemen or road-policemen shall be credited to such fund as the Local Government from time to time appoints.

Fines to be credited to such fund as Government appoints

CHAPTER V.—Subsidiary Rules.

39. The Chief Commissioner may from time to time, with the previous sanction of the Governor General in Council, make rules consistent with this Act as to—

Power to make rules.

(*a*) the discipline and remuneration of the village and road-police and the regulation of their number, location and duties;

(*b*) the disposal of unclaimed property under Act No. V of 1861 *(for the regulation of Police)*, sections 25, 26 and 27;

(*c*) public health and conservancy at fairs and other large public assemblies, and the maintenance of a proper watch and ward at such fairs and assemblies;

(*d*) imposing with the previous sanction of the Governor General in Council taxes for those purposes only;

(*e*) the manner in which records, civil, criminal and revenue, shall be kept; the appointment and removal of the persons entrusted with the custody of records, and all other matters connected with such custody, and the destruction from time to time of such records as it may be deemed unnecessary to keep;

(*f*) the appointment, duties, punishment and dismissal of all ministerial officers other than those employed in the Civil Courts and those in respect of whom provision is made in the Oudh Revenue Act;

(*g*) the extent of land in respect of which a proprietor or under-proprietor is to be held, under section 25, to be a tenant with a right of occupancy.

40. All rules made by the Chief Commissioner under section 39, and all rules made by the Judicial Commissioner under section 27, shall be published in the local official Gazette, and shall thereupon have the force of law.

Publication of rules.

41. All rules heretofore prescribed by competent authority in respect of any of the matters for which rules may be made under this Act, shall remain in force for twelve months after this Act comes into force, unless any rules on the same subject are previously issued by the Chief Commissioner or Judicial Commissioner.

Continuance of prior rules as to matters for which rules may be made under Act.

42. Whoever breaks any rule made or continued under this Act, not being a rule made by the Judicial Commissioner, shall, on conviction before a Magistrate, be punishable with fine which may extend to fifty rupees, or with imprisonment for a term which may extend to six months, or with both.

Penalty for breach of rules

CHAPTER VI.—MISCELLANEOUS.

Honorary Civil Jurisdiction.

Power to invest taluqdárs with civil jurisdiction.

43. The Chief Commissioner may from time to time, by notification in the official Gazette,

(*a*) invest such persons as he thinks fit to be Honorary Assistant Commissioners with the powers of a Civil Court of the first or of the second grade;

(*b*) declare what shall be in each such case the local limits of the jurisdiction so conferred, and

(*c*) withdraw such jurisdiction.

Honorary Police Officers.

Honorary Police officers.

44. The Chief Commissioner may, from time to time, confer on any person whom he thinks fit any power which may be exercised by a Police officer under any Act for the time being in force, and withdraw any power so conferred.

Creation and Alteration of Districts and Sub-divisions.

Power to create new districts.

45. The Governor General in Council may, by notification in the *Gazette of India*, create new districts in any part of such territories, for any revenue, judicial or other purpose, and may alter the limits of existing districts.

Power to form sub-divisions of districts.

The Chief Commissioner may, from time to time, divide any district into sub-divisions, and from time to time alter the limits of such sub-divisions.

All existing tahsíls shall be sub-divisions of districts until they are so altered.

THE FIRST SCHEDULE.

(*See section* 2.)

Number and year.	Title.	Extent of repeal.
	All Bengal Regulations now in force in Oudh, except those specified in the second schedule,	The whole.
	and, except when expressly provided otherwise in this Act, all rules, laws and regulations made for or extended to the province of Oudh, or any part thereof, which have acquired the force of law under the Indian Councils Act.	The whole.
	Government Notification No. 4325 of 6th August 1861.	The whole.
XXI of 1857 ...	Gambling	Sections ten to fifteen.
XIX of 1863 ...	Partition	The whole.
XXXII of 1871 ...	The Oudh Civil Courts Act.	Section thirty-one.

THE SECOND SCHEDULE.

(*See section* 3.)

PART I.—BENGAL REGULATIONS.

Number and year.	Subject.	Modifications.
XXXIII of 1803 ...	Embezzlement by Native Officers.	In section 1 and in section 2, clause *First, before* "sezawuls," *insert* "tahsildárs." In section 2, *after* the first clause, *insert* "*Second.* The responsibility of the sureties of tahsildárs extends to the several cases provided for in this Regulation." In section 3, *for* "Dewanny Adawlut of the Zillah, the Judge of which Court shall detain him," *read* "District, where he shall be detained;" *for* "real or personal," *read* "moveable or immoveable;" *for* "city," *read* "jurisdiction;" *for* "Board of Revenue,"

PART I.—BENGAL REGULATIONS—*continued.*

Number and year.	Subject.	Modifications.
		read "Chief Commissioner;" and *omit* the words and figures "and the rules in Regulation XXVII. 1803 regarding suits so carried on by the Collectors are to be held applicable to it." In section 4, *omit* the words "or in either of the cities of Patna, Dacca or Moorshedabad." *Omit* section 8.
X of 1804 ...	Punishment by Courts-martial of certain State-offences.	*Omit* section 1. In section 2 *for* "the British territories subject to the Government of the Presidency of Fort William," *read* "the territories under the administration of the Chief Commissioner of Oudh." In section 3, *for* "real and personal," *read* "moveable or immoveable."
XI of 1806 ...	Assistance to troops and travellers passing through Districts.	*Omit* sections 1, 7, 9 to 20 (both inclusive), and so much of the rest of the Regulation as authorizes Collectors and their Native officers, or Magistrates and their Police officers, to give their official aid in procuring coolies for the purpose of facilitating the march of troops or the progress of travellers. *For* "Collectors of Revenue" and "Collector," *read* "Deputy Commissioner" throughout the Regulation. In sections 2 and 3, *for* "the Company's territories," *read* "Oudh." In section 2, *omit* the last sentence. In section 4, clause *Third*, *for* "Governor General in Council," *read* "Chief Commissioner." In section 5, *omit* "the Company's;" and *for* "Board of Revenue," *read* "Chief Commissioner." In section 6, *for* "Magistrate," *read* "Deputy Commissioner," and *for* "on the part of the Collector," *read* "by the Deputy Commissioner." In section 8, *for* "the Company's provinces," *read* "Oudh;" and *omit* the words and figures "(under the rules prescribed by Regulation V. 1804,)" and "in Regulation XXVII. 1803."
XVII of 1806 ...	Redemption and foreclosure of mortgages.	*Omit* sections 1 to 6 (both inclusive). In section 7, *omit* from the beginning down to and including "hereby provided that;" *for* "within one year (Bengal, Fussily or Willaity, according to the era current where the mortgage may

PART I.—BENGAL REGULATIONS—*continued.*

Number and year.	Subject.	Modifications.
		take place)," *read* "within one calendar year;" *for* "Zillah or City Court of Dewanny Adawlut," *read* "Deputy Commissioner;" *for* "Dewanny Adawlut of the Zillah or City," *read* "Court of the Deputy Commissioner or other officer having jurisdiction with reference to the value of the subject-matter;" and in the last sentence from "as allowed for the security" to the end of the section. In section 8, *for* "preamble and preceding sections," *read* "preceding section;" *for* "Judge of the Zillah or City," *read* "Deputy Commissioner of the District," and *for* "Judge," *read* "Deputy Commissioner."
XX of 1810 ...	Military Bázárs.	
V of 1817 ...	Hidden Treasure ...	In section 1, *omit* "to be in force as soon as promulgated throughout the provinces immediately subordinate to the Presidency of Fort William." In section 5, *for* "Collectors of Land-revenue," *read* "Deputy Commissioners;" *for* "Board of Revenue," *read* "Chief Commissioner;" *for* "Judge," *read* "Deputy Commissioner." In section 6, *for* "Zillah or City Judge," *read* "Deputy Commissioner." In section 7, *omit* "sicca." In section 8, *for* "Judge of the Zillah or City Court," *read* "Deputy Commissioner," and *omit* the words "on the application of the vakeel of Government under instructions from the Board of Revenue." For section 9, substitute the following: "9. The decisions of Deputy Commissioners under this Regulation shall be open to appeal under Act No. XXXII of 1871."
III of 1818 ...	State Prisoners ...	In section 1, *omit* "situated within the territories dependent on the Presidency of Fort William," and from "which are to take effect" to the end of the section. In section 2, clause *Third*, *omit* "within the territories subject to the Presidency of Fort William." In section 4, *omit* clause *First*. In the same section, clause *Second*, *for* "Zillah or City Magistrate," *read* "Deputy Commissioner," and *for* "Judge

PART I.—BENGAL REGULATIONS—*continued.*

Number and year.	Subject.	Modifications.
		of Circuit," *read* "Commissioner of Division." In section 9, *for* "to the Provincial Court of Appeal and Circuit and to the Sudder Dewanny Adawlut and Nizamut Adawlut," *read* "and to the Judicial Commissioner." *Omit* section 10.
VI of 1819 ...	Ferries ...	*Omit* sections 1 and 2. *Omit* "or Joint Magistrates," "and Joint Magistrates" and "or Joint Magistrate," wherever they occur. In section 3, clause *Second, omit* "by the Collectors." In the same section, clause *Third, after* "prepared," *insert* "through the Commissioners of Divisions," and *for* "Government," *read* "Chief Commissioner," and *add* "who shall fix the rates of toll to be levied at such ferries." In section 4, clause *First, omit* "for limiting the rates of toll to be levied at each ferry." In section 5, *omit* "and in that of the Collector of the District." In section 6, clause *Second, after* "reported," *insert* "through the Commissioners of Divisions," and *for* "Government," *read* "the Chief Commissioner." In section 7, clause *First, omit* "they shall fix the rates of toll on a very moderate scale in no case exceeding, without an indispensable necessity, the rates which prevailed previous to the enactment of Regulation XIX. 1816." In the same section, clause *Third, for* "Bengal or Fussily year according to the era current in the province," *read* "term of his lease." In the same section, clause *Fourth, for* "Magistrate or Collector," *read* "Deputy Commissioner," and *omit* "European." In section 10, *for* the words "public money" to the end of the section, *substitute* "arrears of revenue." In section 11, *for* "Magistrates reserve to themselves," *read* "the Chief Commissioner reserves to himself." In section 12, clause *First*, line one, *for* "a Magistrate," *read* "the Chief Commissioner," and in line four, *omit* "said."

PART I.—BENGAL REGULATIONS—*continued.*

Number and year.	Subject.	Modifications.
		In section 13, *omit* the *Second* clause.
XI of 1822 ...	Non-liability of Government for errors of a Court of Justice.	*Omit* the whole except section thirty-eight.
VI of 1825 ...	Supply of troops on the march.	In the preamble, *omit* the last twenty words. In section 2, *omit* "in pursuance of section III, Regulation XI. 1806," and *omit* "sicca." In section 4, *for* "Board of Revenue in whose jurisdiction the district may be situate" and "Board," *read* "Commissioner." In section 5, *omit* "on the stamped paper prescribed for other appeals to the Revenue Boards," and *for* "the proper Board" and "the Board," *read* "the Commissioner."
XI of 1825 ...	Alluvion and Diluvion ...	*Omit* section 1. In section 3, *omit* "either" and "or the sea." In section 4, clause *First*, *omit* "whether" and "or of the sea," and *for* "the provisions of Regulation II. 1819, or of any other Regulation in force," *read* "any law in force for the time being;" clause *Third*, *omit* "or in the sea" and "or sea;" clause *Fifth*, *omit* "or the sea." In section 5, *for* "Zillah and City Magistrates," *read* "Deputy Commissioners."
XX of 1825 ...	Military Courts of Requests.	*Omit* sections 1, 3 and 4, and section 2, clause *Sixth*. In section 2, clause *First*, *omit* from the beginning down to and including "provided, that;" and *for* "His Majesty or of the Hon'ble East India Company," *read* "Her Majesty;" and *for* "not within the territories subject to the Presidency of Fort William, or at any place within such territories which may be situated above one hundred and twenty miles from the aforesaid Presidency," *read* "within Oudh;" and *for* "a person attached to such body of troops in any of the capacities specified in sections XLV and LX of Statute IVth, Geo. IV., cap. LXXXI," *read* "otherwise subject to the provisions of the Act for punishing Mutiny and

PART I.—BENGAL REGULATIONS—*concluded.*

Number and year.	Subject.	Modifications.
		Desertion and for the better payment of the Army and their quarters for the time being in force;" and *omit* "as directed in such cases in the Regulations above-mentioned;" and *for* "Act of Parliament," *read* "Mutiny Act for the time being in force." In the same section, clause *Third*, *for* "Act of Parliament," *read* "Mutiny Act;" and *for* "Magistrate of the Zillah or City," *read* "Deputy Commissioner." In the same section, clause *Fourth*, *for* "Zillah and City Magistrates," *read* "Deputy Commissioners;" and *omit* "of the nature described in section II of Statute IV Geo. IV, cap. LXXXI," and "under the provisions of the said Act," and "under the provisions of the Regulations hitherto in force."

PART II.—ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

Number and year.	Subject.	Modifications.
XIX of 1853 ...	Section 26, Recusant witnesses.	*Omit* "in addition to any proceedings under this Act."
XX of 1856 ...	Chaukídárs ...	In the preamble, *after* "Bengal," *add* "and the territories under the administration of the Chief Commissioner of Oudh." *Omit* the words "of circuit" wherever they occur after "Commissioner." *Omit* section 40.
XIII of 1857 ...	Opium	In the title, *after* "the Presidency of Fort William in Bengal," *read* "and the territories under the administration of the Chief Commissioner of Oudh." In section two, *after* "Presidency of Fort William in Bengal," *read* "and the administration of the Chief Commissioner of Oudh." In section three, *omit* "being covenanted servants of the Company."
XL of 1858 ...	Minors	In the title, *for* "the Presidency of Fort William in Bengal," *read* "Oudh." In section two, *for* "estates paying revenue to Government," *read* "mahâls assessed to revenue or held revenue-free."

PART II.—ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*concld.*

Number and year.	Subject.	Modifications.
XXII of 1871 ...	Chaukídárs ..	In section one, *after* "Presidency," *insert* "or territories." In section three, *omit* the words "of circuit." *Omit* section six.

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